

# As Introduced

124th General Assembly  
Regular Session  
2001-2002

H. B. No. 327

REPRESENTATIVES Latta, Goodman, Seitz, Reinhard, Lendrum,  
Willamowski, Schmidt, Aslanides, Fedor, Carano

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## A BILL

To amend sections 181.25, 2925.23, 2925.36, 2929.01, 1  
2929.13, 2929.14, 2929.19, 2929.20, 2951.041, 2  
3719.21, 5120.031, and 5120.032 of the Revised Code 3  
to clarify certain provisions of the Felony 4  
Sentencing Law, to correct the penalty provisions 5  
for certain drug abuse offenses, to clarify the 6  
eligibility criteria for intervention in lieu of 7  
conviction, and to extend until July 1, 2002, the 8  
date by which the State Criminal Sentencing 9  
Commission must recommend changes to the state's 10  
criminal forfeiture laws. 11

### BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

**Section 1.** That sections 181.25, 2925.23, 2925.36, 2929.01, 12  
2929.13, 2929.14, 2929.19, 2929.20, 2951.041, 3719.21, 5120.031, 13  
and 5120.032 of the Revised Code be amended to read as follows: 14

**Sec. 181.25.** (A) If the comprehensive criminal sentencing 15  
structure that it recommends to the general assembly pursuant to 16  
section 181.24 of the Revised Code or any aspects of that 17  
sentencing structure are enacted into law, the state criminal 18  
sentencing commission shall do all of the following: 19

(1) Assist the general assembly in the implementation of 20  
those aspects of the sentencing structure that are enacted into 21  
law; 22

(2) Monitor the operation of the aspects of the sentencing 23  
structure that are enacted into law and report to the general 24  
assembly no later than January 1, 1997, and biennially thereafter, 25  
on all of the following matters: 26

(a) The impact of the sentencing structure in effect on and 27  
after July 1, 1996, on political subdivisions and other relevant 28  
aspects of local government in this state, including all of the 29  
following information: 30

(i) The number and type of offenders who were being 31  
imprisoned in a state correctional institution under the law in 32  
effect prior to July 1, 1996, but who are being punished under a 33  
community control sanction, as defined in section 2929.01 of the 34  
Revised Code, under the law in effect on and after July 1, 1996; 35

(ii) The fiscal and other impact of the law in effect on and 36  
after July 1, 1996, on political subdivisions and other relevant 37  
aspects of local government in this state, including law 38  
enforcement agencies, the court system, prosecutors, as defined in 39  
section 2935.01 of the Revised Code, the public defender and 40  
assigned counsel system, jails and workhouses, probation 41  
departments, the drug and alcohol abuse intervention and treatment 42  
system, and the mental health intervention and treatment system. 43

(b) The impact of the sentencing structure in effect on and 44  
after July 1, 1996, on the population of state correctional 45  
institutions, including information regarding the number and types 46  
of offenders who are being imprisoned under the law in effect on 47  
and after July 1, 1996, and the amount of space in state 48  
correctional institutions that is necessary to house those 49  
offenders; 50

(c) The impact of the sentencing structure and the sentence appeal provisions in effect on and after July 1, 1996, on the appellate courts of this state, including information regarding the number of sentence-based appeals, the cost of reviewing appeals of that nature, whether a special court should be created to review sentences, and whether changes should be made to ensure that sentence-based appeals are conducted expeditiously.

(3) Review all bills that are introduced in the general assembly that provide for new criminal offenses or that change the penalty for any criminal offense, determine if those bills are consistent with the sentencing policy adopted under division (B) of section 181.23 of the Revised Code, determine the impact of those bills upon the correctional resources of the state, and recommend to the general assembly any necessary amendments to those bills. When the commission recommends any amendment for a bill before the general assembly, it shall do so in a manner that is consistent with the requirements of section 181.24 of the Revised Code.

(4) Study criminal sentencing structures in this state, other states, and the federal government, recommend necessary changes to the sentencing structure of the state, and determine the costs and effects of any proposed changes in the sentencing structure of the state;

(5) Collect and maintain data that pertains to the cost to counties of the felony sentence appeal provisions set forth in section 2953.08 of the Revised Code, of the postconviction relief proceeding provisions set forth in division (A)(2) of section 2953.21 of the Revised Code, and of appeals from judgments entered in such postconviction relief proceedings. The data so collected and maintained shall include, but shall not be limited to, the increase in expenses that counties experience as a result of those provisions and those appeals and the number of felony sentence

appeals made, postconviction relief proceedings filed, and appeals  
of postconviction relief proceeding judgments made in each county  
under those provisions. The commission periodically shall provide  
to the felony sentence appeal cost oversight committee, in  
accordance with division (I) of section 2953.08 of the Revised  
Code, all data the commission collects pursuant to this division.

(B) In addition to its duties set forth in section 181.24 of  
the Revised Code and division (A) of this section, the state  
criminal sentencing commission shall review all forfeiture  
statutes in Titles XXIX and XLV of the Revised Code and, not later  
than July 1, ~~2001~~ 2002, recommend to the general assembly any  
necessary changes to those statutes.

**Sec. 2925.23.** (A) No person shall knowingly make a false  
statement in any prescription, order, report, or record required  
by Chapter 3719. or 4729. of the Revised Code.

(B) No person shall intentionally make, utter, or sell, or  
knowingly possess any of the following that is a false or forged:

(1) Prescription;

(2) Uncompleted preprinted prescription blank used for  
writing a prescription;

(3) Official written order;

(4) License for a terminal distributor of dangerous drugs as  
required in section 4729.60 of the Revised Code;

(5) Registration certificate for a wholesale distributor of  
dangerous drugs as required in section 4729.60 of the Revised  
Code.

(C) No person, by theft as defined in section 2913.02 of the  
Revised Code, shall acquire any of the following:

(1) A prescription;

(2) An uncompleted preprinted prescription blank used for writing a prescription;	112 113
(3) An official written order;	114
(4) A blank official written order;	115
(5) A license or blank license for a terminal distributor of dangerous drugs as required in section 4729.60 of the Revised Code;	116 117 118
(6) A registration certificate or blank registration certificate for a wholesale distributor of dangerous drugs as required in section 4729.60 of the Revised Code.	119 120 121
(D) No person shall knowingly make or affix any false or forged label to a package or receptacle containing any dangerous drugs.	122 123 124
(E) Divisions (A) and (D) of this section do not apply to licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 4725., 4729., 4731., and 4741. of the Revised Code.	125 126 127 128 129
(F) Whoever violates this section is guilty of illegal processing of drug documents. If the offender violates division (B)(2), (4), or (5) or division (C)(2), (4), (5), or (6) of this section, illegal processing of drug documents is a felony of the fifth degree. If the offender violates <u>division (A)</u> , division (B)(1) or (3), division (C)(1) or (3), or division (D) of this section, the penalty for illegal processing of drug documents shall be determined as follows:	130 131 132 133 134 135 136 137
(1) If the drug involved is a compound, mixture, preparation, or substance included in schedule I or II, with the exception of marihuana, illegal processing of drug documents is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised	138 139 140 141

Code applies in determining whether to impose a prison term on the offender.

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(2) If the drug involved is a dangerous drug or a compound, mixture, preparation, or substance included in schedule III, IV, or V or is marihuana, illegal processing of drug documents is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

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(G) In addition to any prison term authorized or required by division (F) of this section and sections 2929.13 and 2929.14 of the Revised Code and in addition to any other sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to any violation of divisions (A) to (D) of this section shall do both of the following:

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(1) The court shall suspend for not less than six months or more than five years the driver's or commercial driver's license or permit of any person who is convicted of or has pleaded guilty to a violation of this section.

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(2) If the offender is a professionally licensed person or a person who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules, in addition to any other sanction imposed for a violation of this section, the court forthwith shall comply with section 2925.38 of the Revised Code.

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(H) Notwithstanding any contrary provision of section 3719.21 of the Revised Code, the clerk of court shall pay a fine imposed for a violation of this section pursuant to division (A) of section 2929.18 of the Revised Code in accordance with and subject to the requirements of division (F) of section 2925.03 of the Revised Code. The agency that receives the fine shall use the fine

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as specified in division (F) of section 2925.03 of the Revised Code. 173  
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**Sec. 2925.36.** (A) No person shall knowingly furnish another a sample drug. 175  
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(B) Division (A) of this section does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 4725., 4729., 4731., and 4741. of the Revised Code. 177  
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(C)(1) Whoever violates this section is guilty of illegal dispensing of drug samples. 182  
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(2) If the drug involved in the offense is a compound, mixture, preparation, or substance included in schedule I or II, with the exception of marihuana, the penalty for the offense shall be determined as follows: 184  
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(a) Except as otherwise provided in division (C)(2)(b) of this section, illegal dispensing of drug samples is a felony of the fifth degree, and, subject to division (E) of this section, division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. 188  
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(b) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a felony of the fourth degree, and, subject to division (E) of this section, division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. 193  
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(3) If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in schedule III, IV, or V, or is marihuana, the penalty for the offense shall be determined as follows: 199  
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(a) Except as otherwise provided in division (C)(3)(b) of 203  
this section, illegal dispensing of drug samples is a misdemeanor 204  
of the second degree. 205

(b) If the offense was committed in the vicinity of a school 206  
or in the vicinity of a juvenile, illegal dispensing of drug 207  
samples is a misdemeanor of the first degree. 208

(D) In addition to any prison term authorized or required by 209  
division (C) or (E) of this section and sections 2929.13 and 210  
2929.14 of the Revised Code and in addition to any other sanction 211  
imposed for the offense under this section or sections 2929.11 to 212  
2929.18 of the Revised Code, the court that sentences an offender 213  
who is convicted of or pleads guilty to a violation of division 214  
(A) of this section shall do both of the following: 215

(1) The court shall suspend for not less than six months or 216  
more than five years the driver's or commercial driver's license 217  
or permit of any person who is convicted of or has pleaded guilty 218  
to a violation of this section. 219

(2) If the offender is a professionally licensed person or a 220  
person who has been admitted to the bar by order of the supreme 221  
court in compliance with its prescribed and published rules, in 222  
addition to any other sanction imposed for a violation of this 223  
section, the court forthwith shall comply with section 2925.38 of 224  
the Revised Code. 225

~~(E) Notwithstanding the prison term authorized or required by 226  
division (C) of this section and sections 2929.13 and 2929.14 of 227  
the Revised Code, if the violation of division (A) of this section 228  
involves the sale, offer to sell, or possession of a schedule I or 229  
II controlled substance, with the exception of marihuana, and if 230  
the court imposing sentence upon the offender finds that the 231  
offender as a result of the violation is a major drug offender and 232  
is guilty of a specification of the type described in section 233~~



~~2941.1410 of the Revised Code, the court, in lieu of the prison term otherwise authorized or required, shall impose upon the offender the mandatory prison term specified in division (D)(3)(a) of section 2929.14 of the Revised Code and may impose an additional prison term under division (D)(3)(b) of that section.~~

~~(F)~~ Notwithstanding any contrary provision of section 3719.21 of the Revised Code, the clerk of the court shall pay a fine imposed for a violation of this section pursuant to division (A) of section 2929.18 of the Revised Code in accordance with and subject to the requirements of division (F) of section 2925.03 of the Revised Code. The agency that receives the fine shall use the fine as specified in division (F) of section 2925.03 of the Revised Code.

**Sec. 2929.01.** As used in this chapter:

(A)(1) "Alternative residential facility" means, subject to division (A)(2) of this section, any facility other than an offender's home or residence in which an offender is assigned to live and that satisfies all of the following criteria:

(a) It provides programs through which the offender may seek or maintain employment or may receive education, training, treatment, or habilitation.

(b) It has received the appropriate license or certificate for any specialized education, training, treatment, habilitation, or other service that it provides from the government agency that is responsible for licensing or certifying that type of education, training, treatment, habilitation, or service.

(2) "Alternative residential facility" does not include a community-based correctional facility, jail, halfway house, or prison.

(B) "Bad time" means the time by which the parole board

administratively extends an offender's stated prison term or terms  
pursuant to section 2967.11 of the Revised Code because the parole  
board finds by clear and convincing evidence that the offender,  
while serving the prison term or terms, committed an act that is a  
criminal offense under the law of this state or the United States,  
whether or not the offender is prosecuted for the commission of  
that act.

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(C) "Basic probation supervision" means a requirement that  
the offender maintain contact with a person appointed to supervise  
the offender in accordance with sanctions imposed by the court or  
imposed by the parole board pursuant to section 2967.28 of the  
Revised Code. "Basic probation supervision" includes basic parole  
supervision and basic post-release control supervision.

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(D) "Cocaine," "crack cocaine," "hashish," "L.S.D.," and  
"unit dose" have the same meanings as in section 2925.01 of the  
Revised Code.

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(E) "Community-based correctional facility" means a  
community-based correctional facility and program or district  
community-based correctional facility and program developed  
pursuant to sections 2301.51 to 2301.56 of the Revised Code.

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(F) "Community control sanction" means a sanction that is not  
a prison term and that is described in section 2929.15, 2929.16,  
2929.17, or 2929.18 of the Revised Code.

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(G) "Controlled substance," "marihuana," "schedule I," and  
"schedule II" have the same meanings as in section 3719.01 of the  
Revised Code.

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(H) "Curfew" means a requirement that an offender during a  
specified period of time be at a designated place.

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(I) "Day reporting" means a sanction pursuant to which an  
offender is required each day to report to and leave a center or  
other approved reporting location at specified times in order to

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participate in work, education or training, treatment, and other 295  
approved programs at the center or outside the center. 296

(J) "Deadly weapon" has the same meaning as in section 297  
2923.11 of the Revised Code. 298

(K) "Drug and alcohol use monitoring" means a program under 299  
which an offender agrees to submit to random chemical analysis of 300  
the offender's blood, breath, or urine to determine whether the 301  
offender has ingested any alcohol or other drugs. 302

(L) "Drug treatment program" means any program under which a 303  
person undergoes assessment and treatment designed to reduce or 304  
completely eliminate the person's physical or emotional reliance 305  
upon alcohol, another drug, or alcohol and another drug and under 306  
which the person may be required to receive assessment and 307  
treatment on an outpatient basis or may be required to reside at a 308  
facility other than the person's home or residence while 309  
undergoing assessment and treatment. 310

(M) "Economic loss" means any economic detriment suffered by 311  
a victim as a result of the commission of a felony and includes 312  
any loss of income due to lost time at work because of any injury 313  
caused to the victim, and any property loss, medical cost, or 314  
funeral expense incurred as a result of the commission of the 315  
felony. 316

(N) "Education or training" includes study at, or in 317  
conjunction with a program offered by, a university, college, or 318  
technical college or vocational study and also includes the 319  
completion of primary school, secondary school, and literacy 320  
curricula or their equivalent. 321

(O) "Electronically monitored house arrest" has the same 322  
meaning as in section 2929.23 of the Revised Code. 323

(P) "Eligible offender" has the same meaning as in section 324  
2929.23 of the Revised Code except as otherwise specified in 325

section 2929.20 of the Revised Code. 326

(Q) "Firearm" has the same meaning as in section 2923.11 of 327  
the Revised Code. 328

(R) "Halfway house" means a facility licensed by the division 329  
of parole and community services of the department of 330  
rehabilitation and correction pursuant to section 2967.14 of the 331  
Revised Code as a suitable facility for the care and treatment of 332  
adult offenders. 333

(S) "House arrest" means a period of confinement of an 334  
eligible offender that is in the eligible offender's home or in 335  
other premises specified by the sentencing court or by the parole 336  
board pursuant to section 2967.28 of the Revised Code, that may be 337  
electronically monitored house arrest, and during which all of the 338  
following apply: 339

(1) The eligible offender is required to remain in the 340  
eligible offender's home or other specified premises for the 341  
specified period of confinement, except for periods of time during 342  
which the eligible offender is at the eligible offender's place of 343  
employment or at other premises as authorized by the sentencing 344  
court or by the parole board. 345

(2) The eligible offender is required to report periodically 346  
to a person designated by the court or parole board. 347

(3) The eligible offender is subject to any other 348  
restrictions and requirements that may be imposed by the 349  
sentencing court or by the parole board. 350

(T) "Intensive probation supervision" means a requirement 351  
that an offender maintain frequent contact with a person appointed 352  
by the court, or by the parole board pursuant to section 2967.28 353  
of the Revised Code, to supervise the offender while the offender 354  
is seeking or maintaining necessary employment and participating 355  
in training, education, and treatment programs as required in the 356

court's or parole board's order. "Intensive probation supervision" 357  
includes intensive parole supervision and intensive post-release 358  
control supervision. 359

(U) "Jail" means a jail, workhouse, minimum security jail, or 360  
other residential facility used for the confinement of alleged or 361  
convicted offenders that is operated by a political subdivision or 362  
a combination of political subdivisions of this state. 363

(V) "Delinquent child" has the same meaning as in section 364  
2152.02 of the Revised Code. 365

(W) "License violation report" means a report that is made by 366  
a sentencing court, or by the parole board pursuant to section 367  
2967.28 of the Revised Code, to the regulatory or licensing board 368  
or agency that issued an offender a professional license or a 369  
license or permit to do business in this state and that specifies 370  
that the offender has been convicted of or pleaded guilty to an 371  
offense that may violate the conditions under which the offender's 372  
professional license or license or permit to do business in this 373  
state was granted or an offense for which the offender's 374  
professional license or license or permit to do business in this 375  
state may be revoked or suspended. 376

(X) "Major drug offender" means an offender who is convicted 377  
of or pleads guilty to the possession of, sale of, or offer to 378  
sell any drug, compound, mixture, preparation, or substance that 379  
consists of or contains at least one thousand grams of hashish; at 380  
least one hundred grams of crack cocaine; at least one thousand 381  
grams of cocaine that is not crack cocaine; at least two thousand 382  
five hundred unit doses or two hundred fifty grams of heroin; at 383  
least five thousand unit doses of L.S.D. or five hundred grams of 384  
L.S.D. in a liquid concentrate, liquid extract, or liquid 385  
distillate form; or at least one hundred times the amount of any 386  
other schedule I or II controlled substance other than marihuana 387  
that is necessary to commit a felony of the third degree pursuant 388

to section 2925.03, 2925.04, 2925.05, or 2925.11 of the Revised Code that is based on the possession of, sale of, or offer to sell the controlled substance. 389  
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(Y) "Mandatory prison term" means any of the following: 392

(1) Subject to division (Y)(2) of this section, the term in prison that must be imposed for the offenses or circumstances set forth in divisions (F)(1) to (8) or (F)(12) of section 2929.13 and division (D) of section 2929.14 of the Revised Code. Except as provided in sections 2925.02, 2925.03, 2925.04, 2925.05, and 2925.11 of the Revised Code, unless the maximum or another specific term is required under section 2929.14 of the Revised Code, a mandatory prison term described in this division may be any prison term authorized for the level of offense. 393  
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(2) The term of sixty or one hundred twenty days in prison that a sentencing court is required to impose for a third or fourth degree felony OMVI offense pursuant to division (G)(2) of section 2929.13 and division (A)(4) or (8) of section 4511.99 of the Revised Code. 402  
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(3) The term in prison imposed pursuant to section 2971.03 of the Revised Code for the offenses and in the circumstances described in division (F)(11) of section 2929.13 of the Revised Code and that term as modified or terminated pursuant to section 2971.05 of the Revised Code. 407  
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(Z) "Monitored time" means a period of time during which an offender continues to be under the control of the sentencing court or parole board, subject to no conditions other than leading a law-abiding life. 412  
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(AA) "Offender" means a person who, in this state, is convicted of or pleads guilty to a felony or a misdemeanor. 416  
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(BB) "Prison" means a residential facility used for the confinement of convicted felony offenders that is under the 418  
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control of the department of rehabilitation and correction but 420  
does not include a violation sanction center operated under 421  
authority of section 2967.141 of the Revised Code. 422

(CC) "Prison term" includes any of the following sanctions 423  
for an offender: 424

(1) A stated prison term; 425

(2) A term in a prison shortened by, or with the approval of, 426  
the sentencing court pursuant to section 2929.20, 2967.26, 427  
5120.031, 5120.032, or 5120.073 of the Revised Code; 428

(3) A term in prison extended by bad time imposed pursuant to 429  
section 2967.11 of the Revised Code or imposed for a violation of 430  
post-release control pursuant to section 2967.28 of the Revised 431  
Code. 432

(DD) "Repeat violent offender" means a person about whom both 433  
of the following apply: 434

(1) The person has been convicted of or has pleaded guilty 435  
to, and is being sentenced for committing, for complicity in 436  
committing, or for an attempt to commit, aggravated murder, 437  
murder, involuntary manslaughter, a felony of the first degree 438  
other than one set forth in Chapter 2925. of the Revised Code, a 439  
felony of the first degree set forth in Chapter 2925. of the 440  
Revised Code that involved an attempt to cause serious physical 441  
harm to a person or that resulted in serious physical harm to a 442  
person, or a felony of the second degree that involved an attempt 443  
to cause serious physical harm to a person or that resulted in 444  
serious physical harm to a person. 445

(2) Either of the following applies: 446

(a) The person previously was convicted of or pleaded guilty 447  
to, and previously served or, at the time of the offense was 448  
serving, a prison term for, any of the following: 449

(i) Aggravated murder, murder, involuntary manslaughter, rape, felonious sexual penetration as it existed under section 2907.12 of the Revised Code prior to September 3, 1996, a felony of the first or second degree that resulted in the death of a person or in physical harm to a person, or complicity in or an attempt to commit any of those offenses;

(ii) An offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to an offense listed under division (DD)(2)(a)(i) of this section and that resulted in the death of a person or in physical harm to a person.

(b) The person previously was adjudicated a delinquent child for committing an act that if committed by an adult would have been an offense listed in division (DD)(2)(a)(i) or (ii) of this section, the person was committed to the department of youth services for that delinquent act.

(EE) "Sanction" means any penalty imposed upon an offender who is convicted of or pleads guilty to an offense, as punishment for the offense. "Sanction" includes any sanction imposed pursuant to any provision of sections 2929.14 to 2929.18 of the Revised Code.

(FF) "Sentence" means the sanction or combination of sanctions imposed by the sentencing court on an offender who is convicted of or pleads guilty to a felony.

(GG) "Stated prison term" means the prison term, mandatory prison term, or combination of all prison terms and mandatory prison terms imposed by the sentencing court pursuant to section 2929.14 or 2971.03 of the Revised Code. "Stated prison term" includes any credit received by the offender for time spent in jail awaiting trial, sentencing, or transfer to prison for the offense and any time spent under house arrest or electronically



monitored house arrest imposed after earning credits pursuant to 481  
section 2967.193 of the Revised Code. 482

(HH) "Victim-offender mediation" means a reconciliation or 483  
mediation program that involves an offender and the victim of the 484  
offense committed by the offender and that includes a meeting in 485  
which the offender and the victim may discuss the offense, discuss 486  
restitution, and consider other sanctions for the offense. 487

(II) "Fourth degree felony OMVI offense" means a violation of 488  
division (A) of section 4511.19 of the Revised Code that, under 489  
section 4511.99 of the Revised Code, is a felony of the fourth 490  
degree. 491

(JJ) "Mandatory term of local incarceration" means the term 492  
of sixty or one hundred twenty days in a jail, a community-based 493  
correctional facility, a halfway house, or an alternative 494  
residential facility that a sentencing court may impose upon a 495  
person who is convicted of or pleads guilty to a fourth degree 496  
felony OMVI offense pursuant to division (G)(1) of section 2929.13 497  
of the Revised Code and division (A)(4) or (8) of section 4511.99 498  
of the Revised Code. 499

(KK) "Designated homicide, assault, or kidnapping offense," 500  
"sexual motivation specification," "sexually violent offense," 501  
"sexually violent predator," and "sexually violent predator 502  
specification" have the same meanings as in section 2971.01 of the 503  
Revised Code. 504

(LL) "Habitual sex offender," "sexually oriented offense," 505  
and "sexual predator" have the same meanings as in section 2950.01 506  
of the Revised Code. 507

(MM) An offense is "committed in the vicinity of a child" if 508  
the offender commits the offense within thirty feet of or within 509  
the same residential unit as a child who is under eighteen years 510  
of age, regardless of whether the offender knows the age of the 511

child or whether the offender knows the offense is being committed 512  
within thirty feet of or within the same residential unit as the 513  
child and regardless of whether the child actually views the 514  
commission of the offense. 515

(NN) "Family or household member" has the same meaning as in 516  
section 2919.25 of the Revised Code. 517

(OO) "Motor vehicle" and "manufactured home" have the same 518  
meanings as in section 4501.01 of the Revised Code. 519

(PP) "Detention" and "detention facility" have the same 520  
meanings as in section 2921.01 of the Revised Code. 521

(QQ) "Third degree felony OMVI offense" means a violation of 522  
division (A) of section 4511.19 of the Revised Code that, under 523  
section 4511.99 of the Revised Code, is a felony of the third 524  
degree. 525

(RR) "Random drug testing" has the same meaning as in section 526  
5120.63 of the Revised Code. 527

(SS) "Felony sex offense" has the same meaning as in section 528  
2957.28 of the Revised Code. 529

~~(RR)~~(TT) "Body armor" has the same meaning as in section 530  
2941.1411 of the Revised Code. 531

**Sec. 2929.13.** (A) Except as provided in division (E), (F), or 532  
(G) of this section and unless a specific sanction is required to 533  
be imposed or is precluded from being imposed pursuant to law, a 534  
court that imposes a sentence upon an offender for a felony may 535  
impose any sanction or combination of sanctions on the offender 536  
that are provided in sections 2929.14 to 2929.18 of the Revised 537  
Code. The sentence shall not impose an unnecessary burden on state 538  
or local government resources. 539

If the offender is eligible to be sentenced to community 540

control sanctions, the court shall consider the appropriateness of  
imposing a financial sanction pursuant to section 2929.18 of the  
Revised Code or a sanction of community service pursuant to  
section 2929.17 of the Revised Code as the sole sanction for the  
offense. Except as otherwise provided in this division, if the  
court is required to impose a mandatory prison term for the  
offense for which sentence is being imposed, the court also may  
impose a financial sanction pursuant to section 2929.18 of the  
Revised Code but may not impose any additional sanction or  
combination of sanctions under section 2929.16 or 2929.17 of the  
Revised Code.

If the offender is being sentenced for a fourth degree felony  
OMVI offense or for a third degree felony OMVI offense, in  
addition to the mandatory term of local incarceration or the  
mandatory prison term required for the offense by division (G)(1)  
or (2) of this section, the court shall impose upon the offender a  
mandatory fine in accordance with division (B)(3) of section  
2929.18 of the Revised Code and may impose whichever of the  
following is applicable:

(1) For a fourth degree felony OMVI offense for which  
sentence is imposed under division (G)(1) of this section, an  
additional community control sanction or combination of community  
control sanctions under section 2929.16 or 2929.17 of the Revised  
Code;

(2) For a third or fourth degree felony OMVI offense for  
which sentence is imposed under division (G)(2) of this section,  
an additional prison term as described in division (D)(4) of  
section 2929.14 of the Revised Code.

(B)(1) Except as provided in division (B)(2), (E), (F), or  
(G) of this section, in sentencing an offender for a felony of the  
fourth or fifth degree, the sentencing court shall determine  
whether any of the following apply:

- (a) In committing the offense, the offender caused physical harm to a person. 573  
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- (b) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person with a deadly weapon. 575  
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- (c) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person, and the offender previously was convicted of an offense that caused physical harm to a person. 578  
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- (d) The offender held a public office or position of trust and the offense related to that office or position; the offender's position obliged the offender to prevent the offense or to bring those committing it to justice; or the offender's professional reputation or position facilitated the offense or was likely to influence the future conduct of others. 582  
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- (e) The offender committed the offense for hire or as part of an organized criminal activity. 588  
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- (f) The offense is a sex offense that is a fourth or fifth degree felony violation of section 2907.03, 2907.04, 2907.05, 2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the Revised Code. 590  
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- (g) The offender at the time of the offense was serving, or the offender previously had served, a prison term. 594  
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- (h) The offender committed the offense while under a community control sanction, while on probation, or while released from custody on a bond or personal recognizance. 596  
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- (i) The offender committed the offense while in possession of a firearm. 599  
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- (2)(a) If the court makes a finding described in division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this 601  
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section and if the court, after considering the factors set forth  
in section 2929.12 of the Revised Code, finds that a prison term  
is consistent with the purposes and principles of sentencing set  
forth in section 2929.11 of the Revised Code and finds that the  
offender is not amenable to an available community control  
sanction, the court shall impose a prison term upon the offender.

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(b) Except as provided in division (E), (F), or (G) of this  
section, if the court does not make a finding described in  
division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of  
this section and if the court, after considering the factors set  
forth in section 2929.12 of the Revised Code, finds that a  
community control sanction or combination of community control  
sanctions is consistent with the purposes and principles of  
sentencing set forth in section 2929.11 of the Revised Code, the  
court shall impose a community control sanction or combination of  
community control sanctions upon the offender.

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(C) Except as provided in division (E), (F), or (G) of this  
section, in determining whether to impose a prison term as a  
sanction for a felony of the third degree or a felony drug offense  
that is a violation of a provision of Chapter 2925. of the Revised  
Code and that is specified as being subject to this division for  
purposes of sentencing, the sentencing court shall comply with the  
purposes and principles of sentencing under section 2929.11 of the  
Revised Code and with section 2929.12 of the Revised Code.

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(D) Except as provided in division (E) or (F) of this  
section, for a felony of the first or second degree and for a  
felony drug offense that is a violation of any provision of  
Chapter 2925., 3719., or 4729. of the Revised Code for which a  
presumption in favor of a prison term is specified as being  
applicable, it is presumed that a prison term is necessary in  
order to comply with the purposes and principles of sentencing  
under section 2929.11 of the Revised Code. Notwithstanding the

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presumption established under this division, the sentencing court  
may impose a community control sanction or a combination of  
community control sanctions instead of a prison term on an  
offender for a felony of the first or second degree or for a  
felony drug offense that is a violation of any provision of  
Chapter 2925., 3719., or 4729. of the Revised Code for which a  
presumption in favor of a prison term is specified as being  
applicable if it makes both of the following findings:

(1) A community control sanction or a combination of  
community control sanctions would adequately punish the offender  
and protect the public from future crime, because the applicable  
factors under section 2929.12 of the Revised Code indicating a  
lesser likelihood of recidivism outweigh the applicable factors  
under that section indicating a greater likelihood of recidivism.

(2) A community control sanction or a combination of  
community control sanctions would not demean the seriousness of  
the offense, because one or more factors under section 2929.12 of  
the Revised Code that indicate that the offender's conduct was  
less serious than conduct normally constituting the offense are  
applicable, and they outweigh the applicable factors under that  
section that indicate that the offender's conduct was more serious  
than conduct normally constituting the offense.

(E)(1) Except as provided in division (F) of this section,  
for any drug offense that is a violation of any provision of  
Chapter 2925. of the Revised Code and that is a felony of the  
third, fourth, or fifth degree, the applicability of a presumption  
under division (D) of this section in favor of a prison term or of  
division (B) or (C) of this section in determining whether to  
impose a prison term for the offense shall be determined as  
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06,  
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the  
Revised Code, whichever is applicable regarding the violation.

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(2) If an offender who was convicted of or pleaded guilty to a felony violates the conditions of a community control sanction imposed for the offense solely by reason of producing positive results on a drug test, the court, as punishment for the violation of the sanction, shall not order that the offender be imprisoned unless the court determines on the record either of the following:

(a) The offender had been ordered as a sanction for the felony to participate in a drug treatment program, in a drug education program, or in narcotics anonymous or a similar program, and the offender continued to use illegal drugs after a reasonable period of participation in the program.

(b) The imprisonment of the offender for the violation is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code.

(F) Notwithstanding divisions (A) to (E) of this section, the court shall impose a prison term or terms under sections 2929.02 to 2929.06, section 2929.14, or section 2971.03 of the Revised Code and except as specifically provided in section 2929.20 or 2967.191 of the Revised Code or when parole is authorized for the offense under section 2967.13 of the Revised Code shall not reduce the terms pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code for any of the following offenses:

(1) Aggravated murder when death is not imposed or murder;

(2) Any rape, regardless of whether force was involved and regardless of the age of the victim, or an attempt to commit rape by force when the victim is under thirteen years of age;

(3) Gross sexual imposition or sexual battery, if the victim is under thirteen years of age, if the offender previously was convicted of or pleaded guilty to rape, the former offense of

felonious sexual penetration, gross sexual imposition, or sexual battery, and if the victim of the previous offense was under thirteen years of age; 698  
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(4) A felony violation of section 2903.04, 2903.06, 2903.08, 2903.11, 2903.12, or 2903.13 of the Revised Code if the section requires the imposition of a prison term; 701  
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(5) A first, second, or third degree felony drug offense for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 4729.99 of the Revised Code, whichever is applicable regarding the violation, requires the imposition of a mandatory prison term; 704  
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(6) Any offense that is a first or second degree felony and that is not set forth in division (F)(1), (2), (3), or (4) of this section, if the offender previously was convicted of or pleaded guilty to aggravated murder, murder, any first or second degree felony, or an offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to one of those offenses; 709  
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(7) Any offense that is a third degree felony and that is listed in division (DD)(1) of section 2929.01 of the Revised Code if the offender previously was convicted of or pleaded guilty to any offense that is listed in division (DD)(2)(a)(i) or (ii) of section 2929.01 of the Revised Code; 716  
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(8) Any offense, other than a violation of section 2923.12 of the Revised Code, that is a felony, if the offender had a firearm on or about the offender's person or under the offender's control while committing the felony, with respect to a portion of the sentence imposed pursuant to division (D)(1)(a) of section 2929.14 of the Revised Code for having the firearm; 721  
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(9) Any offense of violence that is a felony, if the offender wore or carried body armor while committing the felony offense of 727  
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violence, with respect to the portion of the sentence imposed 729  
pursuant to division (D)(1)(d) of section 2929.14 of the Revised 730  
Code for wearing or carrying the body armor; 731

(10) Corrupt activity in violation of section 2923.32 of the 732  
Revised Code when the most serious offense in the pattern of 733  
corrupt activity that is the basis of the offense is a felony of 734  
the first degree; 735

(11) Any sexually violent offense for which the offender also 736  
is convicted of or pleads guilty to a sexually violent predator 737  
specification that was included in the indictment, count in the 738  
indictment, or information charging the sexually violent offense; 739  
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(12) A violation of division (A)(1) or (2) of section 2921.36 741  
of the Revised Code, or a violation of division (C) of that 742  
section involving an item listed in division (A)(1) or (2) of that 743  
section, if the offender is an officer or employee of the 744  
department of rehabilitation and correction. 745

(G) Notwithstanding divisions (A) to (E) of this section, if 746  
an offender is being sentenced for a fourth degree felony OMVI 747  
offense or for a third degree felony OMVI offense, the court shall 748  
impose upon the offender a mandatory term of local incarceration 749  
or a mandatory prison term in accordance with the following: 750

(1) If the offender is being sentenced for a fourth degree 751  
felony OMVI offense, the court may impose upon the offender a 752  
mandatory term of local incarceration of sixty days as specified 753  
in division (A)(4) of section 4511.99 of the Revised Code or a 754  
mandatory term of local incarceration of one hundred twenty days 755  
as specified in division (A)(8) of that section. The court shall 756  
not reduce the term pursuant to section 2929.20, 2967.193, or any 757  
other provision of the Revised Code. The court that imposes a 758  
mandatory term of local incarceration under this division shall 759

specify whether the term is to be served in a jail, a  
community-based correctional facility, a halfway house, or an  
alternative residential facility, and the offender shall serve the  
term in the type of facility specified by the court. A mandatory  
term of local incarceration imposed under division (G)(1) of this  
section is not subject to extension under section 2967.11 of the  
Revised Code, to a period of post-release control under section  
2967.28 of the Revised Code, or to any other Revised Code  
provision that pertains to a prison term.

(2) If the offender is being sentenced for a third degree  
felony OMVI offense, or if the offender is being sentenced for a  
fourth degree felony OMVI offense and the court does not impose a  
mandatory term of local incarceration under division (G)(1) of  
this section, the court shall impose upon the offender a mandatory  
prison term of sixty days as specified in division (A)(4) of  
section 4511.99 of the Revised Code or a mandatory prison term of  
one hundred twenty days as specified in division (A)(8) of that  
section. The court shall not reduce the term pursuant to section  
2929.20, 2967.193, or any other provision of the Revised Code. In  
no case shall an offender who once has been sentenced to a  
mandatory term of local incarceration pursuant to division (G)(1)  
of this section for a fourth degree felony OMVI offense be  
sentenced to another mandatory term of local incarceration under  
that division for any violation of division (A) of section 4511.19  
of the Revised Code. The court shall not sentence the offender to  
a community control sanction under section 2929.16 or 2929.17 of  
the Revised Code. The department of rehabilitation and correction  
may place an offender sentenced to a mandatory prison term under  
this division in an intensive program prison established pursuant  
to section 5120.033 of the Revised Code if the department gave the  
sentencing judge prior notice of its intent to place the offender  
in an intensive program prison established under that section and

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if the judge did not notify the department that the judge 792  
disapproved the placement. Upon the establishment of the initial 793  
intensive program prison pursuant to section 5120.033 of the 794  
Revised Code that is privately operated and managed by a 795  
contractor pursuant to a contract entered into under section 9.06 796  
of the Revised Code, both of the following apply: 797

(a) The department of rehabilitation and correction shall 798  
make a reasonable effort to ensure that a sufficient number of 799  
offenders sentenced to a mandatory prison term under this division 800  
are placed in the privately operated and managed prison so that 801  
the privately operated and managed prison has full occupancy. 802

(b) Unless the privately operated and managed prison has full 803  
occupancy, the department of rehabilitation and correction shall 804  
not place any offender sentenced to a mandatory prison term under 805  
this division in any intensive program prison established pursuant 806  
to section 5120.033 of the Revised Code other than the privately 807  
operated and managed prison. 808

(H) If an offender is being sentenced for a sexually oriented 809  
offense committed on or after January 1, 1997, the judge shall 810  
require the offender to submit to a DNA specimen collection 811  
procedure pursuant to section 2901.07 of the Revised Code if 812  
either of the following applies: 813

(1) The offense was a sexually violent offense, and the 814  
offender also was convicted of or pleaded guilty to a sexually 815  
violent predator specification that was included in the 816  
indictment, count in the indictment, or information charging the 817  
sexually violent offense. 818

(2) The judge imposing sentence for the sexually oriented 819  
offense determines pursuant to division (B) of section 2950.09 of 820  
the Revised Code that the offender is a sexual predator. 821

(I) If an offender is being sentenced for a sexually oriented 822

offense committed on or after January 1, 1997, the judge shall  
include in the sentence a summary of the offender's duty to  
register pursuant to section 2950.04 of the Revised Code, the  
offender's duty to provide notice of a change in residence address  
and register the new residence address pursuant to section 2950.05  
of the Revised Code, the offender's duty to periodically verify  
the offender's current residence address pursuant to section  
2950.06 of the Revised Code, and the duration of the duties. The  
judge shall inform the offender, at the time of sentencing, of  
those duties and of their duration and, if required under division  
(A)(2) of section 2950.03 of the Revised Code, shall perform the  
duties specified in that section.

(J)(1) Except as provided in division (J)(2) of this section,  
when considering sentencing factors under this section in relation  
to an offender who is convicted of or pleads guilty to an attempt  
to commit an offense in violation of section 2923.02 of the  
Revised Code, the sentencing court shall consider the factors  
applicable to the felony category of the violation of section  
2923.02 of the Revised Code instead of the factors applicable to  
the felony category of the offense attempted.

(2) When considering sentencing factors under this section in  
relation to an offender who is convicted of or pleads guilty to an  
attempt to commit a drug abuse offense for which the penalty is  
determined by the amount or number of unit doses of the controlled  
substance involved in the drug abuse offense, the sentencing court  
shall consider the factors applicable to the felony category that  
the drug abuse offense attempted would be if that drug abuse  
offense had been committed and had involved an amount or number of  
unit doses of the controlled substance that is within the next  
lower range of controlled substance amounts than was involved in  
the attempt.

(K) As used in this section, "drug abuse offense" has the

same meaning as in section 2925.01 of the Revised Code.

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**Sec. 2929.14.** (A) Except as provided in division (C), (D)(1), (D)(2), (D)(3), (D)(4), or (G) of this section and except in relation to an offense for which a sentence of death or life imprisonment is to be imposed, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender pursuant to this chapter and is not prohibited by division (G)(1) of section 2929.13 of the Revised Code from imposing a prison term on the offender, the court shall impose a definite prison term that shall be one of the following:

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(1) For a felony of the first degree, the prison term shall be three, four, five, six, seven, eight, nine, or ten years.

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(2) For a felony of the second degree, the prison term shall be two, three, four, five, six, seven, or eight years.

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(3) For a felony of the third degree, the prison term shall be one, two, three, four, or five years.

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(4) For a felony of the fourth degree, the prison term shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, or eighteen months.

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(5) For a felony of the fifth degree, the prison term shall be six, seven, eight, nine, ten, eleven, or twelve months.

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(B) Except as provided in division (C), (D)(1), (D)(2), (D)(3), or (G) of this section, in section 2907.02 of the Revised Code, or in Chapter 2925. of the Revised Code, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender ~~and if the offender previously has not served a prison term~~, the court shall impose the shortest prison term authorized for the offense pursuant to division (A) of this section, unless ~~the one or more~~

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of the following applies: 884

(1) The offender was serving a prison term at the time of the 885  
offense, or the offender previously had served a prison term. 886

(2) The court finds on the record that the shortest prison 887  
term will demean the seriousness of the offender's conduct or will 888  
not adequately protect the public from future crime by the 889  
offender or others. 890

(C) Except as provided in division (G) of this section or in 891  
Chapter 2925. of the Revised Code, the court imposing a sentence 892  
upon an offender for a felony may impose the longest prison term 893  
authorized for the offense pursuant to division (A) of this 894  
section only upon offenders who committed the worst forms of the 895  
offense, upon offenders who pose the greatest likelihood of 896  
committing future crimes, upon certain major drug offenders under 897  
division (D)(3) of this section, and upon certain repeat violent 898  
offenders in accordance with division (D)(2) of this section. 899

(D)(1)(a) Except as provided in division (D)(1)(e) of this 900  
section, if an offender who is convicted of or pleads guilty to a 901  
felony also is convicted of or pleads guilty to a specification of 902  
the type described in section 2941.141, 2941.144, or 2941.145 of 903  
the Revised Code, the court shall impose on the offender one of 904  
the following prison terms: 905

(i) A prison term of six years if the specification is of the 906  
type described in section 2941.144 of the Revised Code that 907  
charges the offender with having a firearm that is an automatic 908  
firearm or that was equipped with a firearm muffler or silencer on 909  
or about the offender's person or under the offender's control 910  
while committing the felony; 911

(ii) A prison term of three years if the specification is of 912  
the type described in section 2941.145 of the Revised Code that 913  
charges the offender with having a firearm on or about the 914

offender's person or under the offender's control while committing  
the offense and displaying the firearm, brandishing the firearm,  
indicating that the offender possessed the firearm, or using it to  
facilitate the offense;

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(iii) A prison term of one year if the specification is of  
the type described in section 2941.141 of the Revised Code that  
charges the offender with having a firearm on or about the  
offender's person or under the offender's control while committing  
the felony.

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(b) If a court imposes a prison term on an offender under  
division (D)(1)(a) of this section, the prison term shall not be  
reduced pursuant to section 2929.20, section 2967.193, or any  
other provision of Chapter 2967. or Chapter 5120. of the Revised  
Code. A court shall not impose more than one prison term on an  
offender under division (D)(1)(a) of this section for felonies  
committed as part of the same act or transaction.

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(c) Except as provided in division (D)(1)(e) of this section,  
if an offender who is convicted of or pleads guilty to a violation  
of section 2923.161 of the Revised Code or to a felony that  
includes, as an essential element, purposely or knowingly causing  
or attempting to cause the death of or physical harm to another,  
also is convicted of or pleads guilty to a specification of the  
type described in section 2941.146 of the Revised Code that  
charges the offender with committing the offense by discharging a  
firearm from a motor vehicle other than a manufactured home, the  
court, after imposing a prison term on the offender for the  
violation of section 2923.161 of the Revised Code or for the other  
felony offense under division (A), (D)(2), or (D)(3) of this  
section, shall impose an additional prison term of five years upon  
the offender that shall not be reduced pursuant to section  
2929.20, section 2967.193, or any other provision of Chapter 2967.  
or Chapter 5120. of the Revised Code. A court shall not impose

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more than one additional prison term on an offender under division (D)(1)(c) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term on an offender under division (D)(1)(c) of this section relative to an offense, the court also shall impose a prison term under division (D)(1)(a) of this section relative to the same offense, provided the criteria specified in that division for imposing an additional prison term are satisfied relative to the offender and the offense.

(d) If an offender who is convicted of or pleads guilty to an offense of violence that is a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.1411 of the Revised Code that charges the offender with wearing or carrying body armor while committing the felony offense of violence, the court shall impose on the offender a prison term of two years. The prison term so imposed shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of ~~chapter~~ Chapter 2967. or ~~chapter~~ Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(1)(d) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term under division (D)(1)(a) or (c) of this section, the court is not precluded from imposing an additional prison term under division (D)(1)(d) of this section.

(e) The court shall not impose any of the prison terms described in division (D)(1)(a) of this section or any of the additional prison terms described in division (D)(1)(c) of this section upon an offender for a violation of section 2923.12 or 2923.123 of the Revised Code. The court shall not impose any of the prison terms described in division (D)(1)(a) of this section or any of the additional prison terms described in division



(D)(1)(c) of this section upon an offender for a violation of 979  
section 2923.13 of the Revised Code unless all of the following 980  
apply: 981

(i) The offender previously has been convicted of aggravated 982  
murder, murder, or any felony of the first or second degree. 983

(ii) Less than five years have passed since the offender was 984  
released from prison or post-release control, whichever is later, 985  
for the prior offense. 986

(2)(a) If an offender who is convicted of or pleads guilty to 987  
a felony also is convicted of or pleads guilty to a specification 988  
of the type described in section 2941.149 of the Revised Code that 989  
the offender is a repeat violent offender, the court shall impose 990  
a prison term from the range of terms authorized for the offense 991  
under division (A) of this section that may be the longest term in 992  
the range and that shall not be reduced pursuant to section 993  
2929.20, section 2967.193, or any other provision of Chapter 2967. 994  
or Chapter 5120. of the Revised Code. If the court finds that the 995  
repeat violent offender, in committing the offense, caused any 996  
physical harm that carried a substantial risk of death to a person 997  
or that involved substantial permanent incapacity or substantial 998  
permanent disfigurement of a person, the court shall impose the 999  
longest prison term from the range of terms authorized for the 1000  
offense under division (A) of this section. 1001

(b) If the court imposing a prison term on a repeat violent 1002  
offender imposes the longest prison term from the range of terms 1003  
authorized for the offense under division (A) of this section, the 1004  
court may impose on the offender an additional definite prison 1005  
term of one, two, three, four, five, six, seven, eight, nine, or 1006  
ten years if the court finds that both of the following apply with 1007  
respect to the prison terms imposed on the offender pursuant to 1008  
division (D)(2)(a) of this section and, if applicable, divisions 1009  
(D)(1) and (3) of this section: 1010

(i) The terms so imposed are inadequate to punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a greater likelihood of recidivism outweigh the applicable factors under that section indicating a lesser likelihood of recidivism.

(ii) The terms so imposed are demeaning to the seriousness of the offense, because one or more of the factors under section 2929.12 of the Revised Code indicating that the offender's conduct is more serious than conduct normally constituting the offense are present, and they outweigh the applicable factors under that section indicating that the offender's conduct is less serious than conduct normally constituting the offense.

(3)(a) Except when an offender commits a violation of section 2903.01 or 2907.02 of the Revised Code and the penalty imposed for the violation is life imprisonment or commits a violation of section 2903.02 of the Revised Code, if the offender commits a violation of section 2925.03 or 2925.11 of the Revised Code and that section classifies the offender as a major drug offender and requires the imposition of a ten-year prison term on the offender, if the offender commits a felony violation of section 2925.02, 2925.04, 2925.05, ~~2925.36~~, 3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, division (C) or (D) of section 3719.172, division (C) of section 4729.51, or division (J) of section 4729.54 of the Revised Code that includes the sale, offer to sell, or possession of a schedule I or II controlled substance, with the exception of marihuana, and the court imposing sentence upon the offender finds that the offender is guilty of a specification of the type described in section 2941.1410 of the Revised Code charging that the offender is a major drug offender, or if the court imposing sentence upon an offender for a felony finds that the offender is guilty of corrupt activity with the most serious

offense in the pattern of corrupt activity being a felony of the 1043  
first degree or is guilty of an attempted forcible violation of 1044  
section 2907.02 of the Revised Code with the victim being under 1045  
thirteen years of age and that attempted violation is the felony 1046  
for which sentence is being imposed, the court shall impose upon 1047  
the offender for the felony violation a ten-year prison term that 1048  
cannot be reduced pursuant to section 2929.20 or Chapter 2967. or 1049  
5120. of the Revised Code. 1050

(b) The court imposing a prison term on an offender under 1051  
division (D)(3)(a) of this section may impose an additional prison 1052  
term of one, two, three, four, five, six, seven, eight, nine, or 1053  
ten years, if the court, with respect to the term imposed under 1054  
division (D)(3)(a) of this section and, if applicable, divisions 1055  
(D)(1) and (2) of this section, makes both of the findings set 1056  
forth in divisions (D)(2)(b)(i) and (ii) of this section. 1057

(4) If the offender is being sentenced for a third or fourth 1058  
degree felony OMVI offense under division (G)(2) of section 1059  
2929.13 of the Revised Code, the sentencing court shall impose 1060  
upon the offender a mandatory prison term in accordance with that 1061  
division. In addition to the mandatory prison term, the sentencing 1062  
court may sentence the offender to an additional prison term of 1063  
any duration specified in division (A)(3) of this section minus 1064  
the sixty or one hundred twenty days imposed upon the offender as 1065  
the mandatory prison term. The total of the additional prison term 1066  
imposed under division (D)(4) of this section plus the sixty or 1067  
one hundred twenty days imposed as the mandatory prison term shall 1068  
equal one of the authorized prison terms specified in division 1069  
(A)(3) of this section. If the court imposes an additional prison 1070  
term under division (D)(4) of this section, the offender shall 1071  
serve the additional prison term after the offender has served the 1072  
mandatory prison term required for the offense. The court shall 1073  
not sentence the offender to a community control sanction under 1074

section 2929.16 or 2929.17 of the Revised Code.

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(E)(1)(a) Subject to division (E)(1)(b) of this section, if a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(a) of this section for having a firearm on or about the offender's person or under the offender's control while committing a felony, if a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(c) of this section for committing a felony specified in that division by discharging a firearm from a motor vehicle, or if both types of mandatory prison terms are imposed, the offender shall serve any mandatory prison term imposed under either division consecutively to any other mandatory prison term imposed under either division or under division (D)(1)(d) of this section, consecutively to and prior to any prison term imposed for the underlying felony pursuant to division (A), (D)(2), or (D)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

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(b) If a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(d) of this section for wearing or carrying body armor while committing an offense of violence that is a felony, the offender shall serve the mandatory term so imposed consecutively to any other mandatory prison term imposed under that division or under division (D)(1)(a) or (c) of this section, consecutively to and prior to any prison term imposed for the underlying felony under division (A), (D)(2), or (D)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

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(2) If an offender who is an inmate in a jail, prison, or other residential detention facility violates section 2917.02,

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2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender  
who is under detention at a detention facility commits a felony  
violation of section 2923.131 of the Revised Code, or if an  
offender who is an inmate in a jail, prison, or other residential  
detention facility or is under detention at a detention facility  
commits another felony while the offender is an escapee in  
violation of section 2921.34 of the Revised Code, any prison term  
imposed upon the offender for one of those violations shall be  
served by the offender consecutively to the prison term or term of  
imprisonment the offender was serving when the offender committed  
that offense and to any other prison term previously or  
subsequently imposed upon the offender.

(3) If a prison term is imposed for a violation of division  
(B) of section 2911.01 of the Revised Code or if a prison term is  
imposed for a felony violation of division (B) of section 2921.331  
of the Revised Code, the offender shall serve that prison term  
consecutively to any other prison term or mandatory prison term  
previously or subsequently imposed upon the offender.

(4) If multiple prison terms are imposed on an offender for  
convictions of multiple offenses, the court may require the  
offender to serve the prison terms consecutively if the court  
finds that the consecutive service is necessary to protect the  
public from future crime or to punish the offender and that  
consecutive sentences are not disproportionate to the seriousness  
of the offender's conduct and to the danger the offender poses to  
the public, and if the court also finds any of the following:

(a) The offender committed one or more of the multiple  
offenses while the offender was awaiting trial or sentencing, was  
under a sanction imposed pursuant to section 2929.16, 2929.17, or  
2929.18 of the Revised Code, or was under post-release control for  
a prior offense.

(b) The At least two of the multiple offenses were committed

as part of one or more courses of conduct, and the harm caused by 1139  
two or more of the multiple offenses so committed was so great or 1140  
unusual that no single prison term for any of the offenses 1141  
committed as part of ~~a single course~~ any of the courses of conduct 1142  
adequately reflects the seriousness of the offender's conduct. 1143

(c) The offender's history of criminal conduct demonstrates 1144  
that consecutive sentences are necessary to protect the public 1145  
from future crime by the offender. 1146

(5) When consecutive prison terms are imposed pursuant to 1147  
division (E)(1), (2), (3), or (4) of this section, the term to be 1148  
served is the aggregate of all of the terms so imposed. 1149

(F) If a court imposes a prison term of a type described in 1150  
division (B) of section 2967.28 of the Revised Code, it shall 1151  
include in the sentence a requirement that the offender be subject 1152  
to a period of post-release control after the offender's release 1153  
from imprisonment, in accordance with that division. If a court 1154  
imposes a prison term of a type described in division (C) of that 1155  
section, it shall include in the sentence a requirement that the 1156  
offender be subject to a period of post-release control after the 1157  
offender's release from imprisonment, in accordance with that 1158  
division, if the parole board determines that a period of 1159  
post-release control is necessary. 1160

(G) If a person is convicted of or pleads guilty to a 1161  
sexually violent offense and also is convicted of or pleads guilty 1162  
to a sexually violent predator specification that was included in 1163  
the indictment, count in the indictment, or information charging 1164  
that offense, the court shall impose sentence upon the offender in 1165  
accordance with section 2971.03 of the Revised Code, and Chapter 1166  
2971. of the Revised Code applies regarding the prison term or 1167  
term of life imprisonment without parole imposed upon the offender 1168  
and the service of that term of imprisonment. 1169

(H) If a person who has been convicted of or pleaded guilty 1170

to a felony is sentenced to a prison term or term of imprisonment 1171  
under this section, sections 2929.02 to 2929.06 of the Revised 1172  
Code, section 2971.03 of the Revised Code, or any other provision 1173  
of law, section 5120.163 of the Revised Code applies regarding the 1174  
person while the person is confined in a state correctional 1175  
institution. 1176

(I) If an offender who is convicted of or pleads guilty to a 1177  
felony that is an offense of violence also is convicted of or 1178  
pleads guilty to a specification of the type described in section 1179  
2941.142 of the Revised Code that charges the offender with having 1180  
committed the felony while participating in a criminal gang, the 1181  
court shall impose upon the offender an additional prison term of 1182  
one, two, or three years. 1183

(J) If an offender who is convicted of or pleads guilty to 1184  
aggravated murder, murder, or a felony of the first, second, or 1185  
third degree that is an offense of violence also is convicted of 1186  
or pleads guilty to a specification of the type described in 1187  
section 2941.143 of the Revised Code that charges the offender 1188  
with having committed the offense in a school safety zone or 1189  
towards a person in a school safety zone, the court shall impose 1190  
upon the offender an additional prison term of two years. The 1191  
offender shall serve the additional two years consecutively to and 1192  
prior to the prison term imposed for the underlying offense. 1193

(K) At the time of sentencing, the court ~~shall determine if~~ 1194  
~~an offender is eligible for placement in a program of shock~~ 1195  
~~incarceration under section 5120.031 of the Revised Code or is~~ 1196  
~~eligible for placement in an intensive program prison under~~ 1197  
~~section 5120.032 of the Revised Code. The court may recommend the~~ 1198  
offender for placement in a program of shock incarceration, ~~if~~ 1199  
~~eligible,~~ under section 5120.031 of the Revised Code or for 1200  
placement in an intensive program prison, ~~if eligible~~ under 1201  
section 5120.032 of the Revised Code, disapprove placement of the 1202

offender in a program of shock incarceration or ~~in an intensive~~ 1203  
program prison, ~~regardless of eligibility of that nature~~, or make 1204  
no recommendation on placement of the offender. In no case shall 1205  
the department of rehabilitation and correction place the offender 1206  
in a program or prison of that nature unless the department 1207  
determines as specified in section 5120.031 or 5120.032 of the 1208  
Revised Code, whichever is applicable, that the offender is 1209  
eligible for the placement. 1210

If the court disapproves placement of the offender in a 1211  
program or prison of that nature, the department of rehabilitation 1212  
and correction shall not place the offender in any program of 1213  
shock incarceration or intensive program prison. 1214

If the court ~~approves~~ recommends placement of the offender in 1215  
a program of shock incarceration or in an intensive program 1216  
prison, ~~the department shall notify the court and~~ if the offender 1217  
is subsequently placed in the recommended program or prison, the 1218  
department shall notify the court of the placement and shall 1219  
include with the notice a brief description of the placement. 1220

If the court ~~approves~~ recommends placement of the offender in 1221  
a program of shock incarceration or in an intensive program prison 1222  
and the department does not subsequently place the offender in the 1223  
recommended program or prison, the department shall send a notice 1224  
to the court indicating why the offender was not placed in the 1225  
recommended program or prison. 1226

If the court does not make a recommendation under this 1227  
division with respect to an eligible offender and if the 1228  
department determines as specified in section 5120.031 or 5120.032 1229  
of the Revised Code, whichever is applicable, that the offender is 1230  
eligible for placement in a program or prison of that nature, the 1231  
department shall screen the offender and determine if there is an 1232  
available program of shock incarceration or an intensive program 1233  
prison for which the offender is suited. If there is an available 1234



program of shock incarceration or an intensive program prison for 1235  
which the offender is suited, the department shall notify the 1236  
court of the proposed placement of the offender as specified in 1237  
section 5120.031 or 5120.032 of the Revised Code and shall include 1238  
with the notice a brief description of the placement. The court 1239  
shall have ten days from receipt of the notice to disapprove the 1240  
placement. 1241

**Sec. 2929.19.** (A)(1) The court shall hold a sentencing 1242  
hearing before imposing a sentence under this chapter upon an 1243  
offender who was convicted of or pleaded guilty to a felony and 1244  
before resentencing an offender who was convicted of or pleaded 1245  
guilty to a felony and whose case was remanded pursuant to section 1246  
2953.07 or 2953.08 of the Revised Code. At the hearing, the 1247  
offender, the prosecuting attorney, the victim or the victim's 1248  
representative in accordance with section 2930.14 of the Revised 1249  
Code, and, with the approval of the court, any other person may 1250  
present information relevant to the imposition of sentence in the 1251  
case. The court shall inform the offender of the verdict of the 1252  
jury or finding of the court and ask the offender whether the 1253  
offender has anything to say as to why sentence should not be 1254  
imposed upon the offender. 1255

(2) Except as otherwise provided in this division, before 1256  
imposing sentence on an offender who is being sentenced for a 1257  
sexually oriented offense that was committed on or after January 1258  
1, 1997, and that is not a sexually violent offense, and before 1259  
imposing sentence on an offender who is being sentenced for a 1260  
sexually violent offense committed on or after January 1, 1997, 1261  
and who was not charged with a sexually violent predator 1262  
specification in the indictment, count in the indictment, or 1263  
information charging the sexually violent offense, the court shall 1264  
conduct a hearing in accordance with division (B) of section 1265  
2950.09 of the Revised Code to determine whether the offender is a 1266

sexual predator. The court shall not conduct a hearing under that  
division if the offender is being sentenced for a sexually violent  
offense and a sexually violent predator specification was included  
in the indictment, count in the indictment, or information  
charging the sexually violent offense. Before imposing sentence on  
an offender who is being sentenced for a sexually oriented  
offense, the court also shall comply with division (E) of section  
2950.09 of the Revised Code.

(B)(1) At the sentencing hearing, the court, before imposing  
sentence, shall consider the record, any information presented at  
the hearing by any person pursuant to division (A) of this  
section, and, if one was prepared, the presentence investigation  
report made pursuant to section 2951.03 of the Revised Code or  
Criminal Rule 32.2, and any victim impact statement made pursuant  
to section 2947.051 of the Revised Code.

(2) The court shall impose a sentence and shall make a  
finding that gives its reasons for selecting the sentence imposed  
in any of the following circumstances:

(a) Unless the offense is a sexually violent offense for  
which the court is required to impose sentence pursuant to  
division (G) of section 2929.14 of the Revised Code, if it imposes  
a prison term for a felony of the fourth or fifth degree or for a  
felony drug offense that is a violation of a provision of Chapter  
2925. of the Revised Code and that is specified as being subject  
to division (B) of section 2929.13 of the Revised Code for  
purposes of sentencing, its reasons for imposing the prison term,  
based upon the overriding purposes and principles of felony  
sentencing set forth in section 2929.11 of the Revised Code, and  
any factors listed in divisions (B)(1)(a) to (i) of section  
2929.13 of the Revised Code that it found to apply relative to the  
offender.

(b) If it does not impose a prison term for a felony of the

first or second degree or for a felony drug offense that is a 1299  
violation of a provision of Chapter 2925. of the Revised Code and 1300  
for which a presumption in favor of a prison term is specified as 1301  
being applicable, its reasons for not imposing the prison term and 1302  
for overriding the presumption, based upon the overriding purposes 1303  
and principles of felony sentencing set forth in section 2929.11 1304  
of the Revised Code, and the basis of the findings it made under 1305  
divisions (D)(1) and (2) of section 2929.13 of the Revised Code. 1306

(c) If it imposes consecutive sentences under section 2929.14 1307  
of the Revised Code, its reasons for imposing the consecutive 1308  
sentences; 1309

(d) If the sentence is for one offense and it imposes a 1310  
prison term for the offense that is the maximum prison term 1311  
allowed for that offense by division (A) of section 2929.14 of the 1312  
Revised Code, its reasons for imposing the maximum prison term; 1313

(e) If the sentence is for two or more offenses arising out 1314  
of a single incident and it imposes a prison term for those 1315  
offenses that is the maximum prison term allowed for the offense 1316  
of the highest degree by division (A) of section 2929.14 of the 1317  
Revised Code, its reasons for imposing the maximum prison term. 1318

(3) Subject to division (B)(4) of this section, if the 1319  
sentencing court determines at the sentencing hearing that a 1320  
prison term is necessary or required, the court shall do all of 1321  
the following: 1322

(a) Impose a stated prison term; 1323

(b) Notify the offender that, as part of the sentence, the 1324  
parole board may extend the stated prison term for certain 1325  
violations of prison rules for up to one-half of the stated prison 1326  
term; 1327

(c) Notify the offender that the offender will be supervised 1328  
under section 2967.28 of the Revised Code after the offender 1329

leaves prison if the offender is being sentenced for a felony of 1330  
the first degree or second degree, for a felony sex offense, or 1331  
for a felony of the third degree in the commission of which the 1332  
offender caused or threatened to cause physical harm to a person; 1333

(d) Notify the offender that the offender may be supervised 1334  
under section 2967.28 of the Revised Code after the offender 1335  
leaves prison if the offender is being sentenced for a felony of 1336  
the third, fourth, or fifth degree that is not subject to division 1337  
(B)(3)(c) of this section; 1338

(e) Notify the offender that, if a period of supervision is 1339  
imposed following the offender's release from prison, as described 1340  
in division (B)(3)(c) or (d) of this section, and if the offender 1341  
violates that supervision or a condition of post-release control 1342  
imposed under division (B) of section 2967.131 of the Revised 1343  
Code, the parole board may impose a prison term, as part of the 1344  
sentence, of up to one-half of the stated prison term originally 1345  
imposed upon the offender; 1346

(f) Require that the offender not ingest or be injected with 1347  
a drug of abuse and submit to random drug testing as provided in 1348  
section 341.26, 753.33, or 5120.63 of the Revised Code, whichever 1349  
is applicable to the offender who is serving a prison term, and 1350  
require that the results of the drug test administered under any 1351  
of those sections indicate that the offender did not ingest or was 1352  
not injected with a drug of abuse. 1353

(4) If the offender is being sentenced for a sexually violent 1354  
offense that the offender committed on or after January 1, 1997, 1355  
and the offender also is convicted of or pleads guilty to a 1356  
sexually violent predator specification that was included in the 1357  
indictment, count in the indictment, or information charging the 1358  
sexually violent offense or if the offender is being sentenced for 1359  
a sexually oriented offense that the offender committed on or 1360  
after January 1, 1997, and the court imposing the sentence has 1361

determined pursuant to division (B) of section 2950.09 of the Revised Code that the offender is a sexual predator, the court shall include in the offender's sentence a statement that the offender has been adjudicated as being a sexual predator and shall comply with the requirements of section 2950.03 of the Revised Code. Additionally, in the circumstances described in division (G) of section 2929.14 of the Revised Code, the court shall impose sentence on the offender as described in that division.

(5) If the sentencing court determines at the sentencing hearing that a community control sanction should be imposed and the court is not prohibited from imposing a community control sanction, the court shall impose a community control sanction. The court shall notify the offender that, if the conditions of the sanction are violated, if the offender commits a violation of any law, or if the offender leaves this state without the permission of the court or the offender's probation officer, the court may impose a longer time under the same sanction, may impose a more restrictive sanction, or may impose a prison term on the offender and shall indicate the specific prison term that may be imposed as a sanction for the violation, as selected by the court from the range of prison terms for the offense pursuant to section 2929.14 of the Revised Code.

(6) Before imposing a financial sanction under section 2929.18 of the Revised Code or a fine under section 2929.25 of the Revised Code, the court shall consider the offender's present and future ability to pay the amount of the sanction or fine.

(C)(1) If the offender is being sentenced for a fourth degree felony OMVI offense under division (G)(1) of section 2929.13 of the Revised Code, the court shall impose the mandatory term of local incarceration in accordance with that division, shall impose a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code, and, in addition, may impose

additional sanctions as specified in sections 2929.15, 2929.16,  
2929.17, and 2929.18 of the Revised Code. The court shall not  
impose a prison term on the offender.

(2) If the offender is being sentenced for a third or fourth  
degree felony OMVI offense under division (G)(2) of section  
2929.13 of the Revised Code, the court shall impose the mandatory  
prison term in accordance with that division, shall impose a  
mandatory fine in accordance with division (B)(3) of section  
2929.18 of the Revised Code, and, in addition, may impose an  
additional prison term as specified in section 2929.14 of the  
Revised Code. The court shall not impose any community control  
sanction on the offender.

~~(D) If the The sentencing court ~~determines at the sentencing~~  
~~hearing that an offender is eligible for placement in a program of~~  
~~shock incarceration under section 5120.031 of the Revised Code or~~  
~~in an intensive program prison under section 5120.032 of the~~  
~~Revised Code, the court, pursuant to division (K) of section~~  
2929.14 of the Revised Code, may recommend placement of the  
offender in a program of shock incarceration under section  
5120.031 of the Revised Code or an intensive program prison under  
section 5120.032 of the Revised Code, disapprove placement of the  
offender in a program or prison of that nature, or make no  
recommendation. ~~The~~ If the court recommends or disapproves  
placement, it shall make a finding that gives its reasons for its  
recommendation or disapproval.~~

**Sec. 2929.20.** (A) As used in this section, "eligible  
offender" means any person serving a stated prison term of ten  
years or less when either of the following applies:

(1) The stated prison term does not include a mandatory  
prison term.

(2) The stated prison term includes a mandatory prison term,

and the person has served the mandatory prison term. 1425

(B) Upon the filing of a motion by the eligible offender or 1426  
upon its own motion, a sentencing court may reduce the offender's 1427  
stated prison term through a judicial release in accordance with 1428  
this section. The court shall not reduce the stated prison term of 1429  
an offender who is not an eligible offender. An eligible offender 1430  
may file a motion for judicial release with the sentencing court 1431  
within the following applicable period of time: 1432

(1)(a) Except as otherwise provided in division (B)(1)(b) or 1433  
(c) of this section, if the stated prison term was imposed for a 1434  
felony of the fourth or fifth degree, the eligible offender may 1435  
file the motion not earlier than thirty days or later than ninety 1436  
days after the offender is delivered to a state correctional 1437  
institution. 1438

(b) If the stated prison term is five years and is an 1439  
aggregate of stated prison terms that are being served 1440  
consecutively and that were imposed for any combination of 1441  
felonies of the fourth degree and felonies of the fifth degree, 1442  
the eligible offender may file the motion after the eligible 1443  
offender has served four years of the stated prison term. 1444

(c) If the stated prison term is more than five years and 1445  
~~less~~ not more than ten years and is an aggregate of stated prison 1446  
terms that are being served consecutively and that were imposed 1447  
for any combination of felonies of the fourth degree and felonies 1448  
of the fifth degree, the eligible offender may file the motion 1449  
after the eligible offender has served five years of the stated 1450  
prison term. 1451

(2) Except as otherwise provided in division (B)(3) or (4) of 1452  
this section, if the stated prison term was imposed for a felony 1453  
of the first, second, or third degree, the eligible offender may 1454  
file the motion not earlier than one hundred eighty days after the 1455

offender is delivered to a state correctional institution. 1456

(3) If the stated prison term is five years, the eligible 1458  
offender may file the motion after the eligible offender has 1459  
served four years of the stated prison term. 1460

(4) If the stated prison term is more than five years and 1461  
~~less~~ not more than ten years, the eligible offender may file the 1462  
motion after the eligible offender has served five years of the 1463  
stated prison term. 1464

(5) If the offender's stated prison term includes a mandatory 1465  
prison term, the offender shall file the motion within the time 1466  
authorized under division (B)(1), (2), (3), or (4) of this section 1467  
for the nonmandatory portion of the prison term, but the time for 1468  
filing the motion does not begin to run until after the expiration 1469  
of the mandatory portion of the prison term. 1470

(C) Upon receipt of a timely motion for judicial release 1471  
filed by an eligible offender under division (B) of this section 1472  
or upon the sentencing court's own motion made within the 1473  
appropriate time period specified in that division, the court may 1474  
schedule a hearing on the motion. The court may deny the motion 1475  
without a hearing but shall not grant the motion without a 1476  
hearing. If a court denies a motion without a hearing, the court 1477  
may consider a subsequent judicial release for that eligible 1478  
offender on its own motion or a subsequent motion filed by that 1479  
eligible offender. If a court denies a motion after a hearing, the 1480  
court shall not consider a subsequent motion for that eligible 1481  
offender. The court shall hold only one hearing for any eligible 1482  
offender. 1483

A hearing under this section shall be conducted in open court 1484  
within sixty days after the date on which the motion is filed, 1485  
provided that the court may delay the hearing for a period not to 1486  
exceed one hundred eighty additional days. If the court holds a 1487



hearing on the motion, the court shall enter a ruling on the 1488  
motion within ten days after the hearing. If the court denies the 1489  
motion without a hearing, the court shall enter its ruling on the 1490  
motion within sixty days after the motion is filed. 1491

(D) If a court schedules a hearing under division (C) of this 1492  
section, the court shall notify the eligible offender of the 1493  
hearing. The eligible offender promptly shall give a copy of the 1494  
notice of the hearing to the head of the state correctional 1495  
institution in which the eligible offender is confined. If the 1496  
court schedules a hearing for judicial release, the court promptly 1497  
shall give notice of the hearing to the prosecuting attorney of 1498  
the county in which the eligible offender was indicted. Upon 1499  
receipt of the notice from the court, the prosecuting attorney 1500  
shall notify the victim of the offense for which the stated prison 1501  
term was imposed or the victim's representative, pursuant to 1502  
section 2930.16 of the Revised Code, of the hearing. 1503

(E) Prior to the date of the hearing on a motion for judicial 1504  
release under this section, the head of the state correctional 1505  
institution in which the eligible offender in question is confined 1506  
shall send to the court a report on the eligible offender's 1507  
conduct in the institution and in any institution from which the 1508  
eligible offender may have been transferred. The report shall 1509  
cover the eligible offender's participation in school, vocational 1510  
training, work, treatment, and other rehabilitative activities and 1511  
any disciplinary action taken against the eligible offender. The 1512  
report shall be made part of the record of the hearing. 1513

(F) If the court grants a hearing on a motion for judicial 1514  
release under this section, the eligible offender shall attend the 1515  
hearing if ordered to do so by the court. Upon receipt of a copy 1516  
of the journal entry containing the order, the head of the state 1517  
correctional institution in which the eligible offender is 1518  
1519

incarcerated shall deliver the eligible offender to the sheriff of 1520  
the county in which the hearing is to be held. The sheriff shall 1521  
convey the eligible offender to the hearing and return the 1522  
offender to the institution after the hearing. 1523

(G) At the hearing on a motion for judicial release under 1524  
this section, the court shall afford the eligible offender and the 1525  
eligible offender's attorney an opportunity to present written 1526  
information relevant to the motion and shall afford the eligible 1527  
offender, if present, and the eligible offender's attorney an 1528  
opportunity to present oral information relevant to the motion. 1529  
The court shall afford a similar opportunity to the prosecuting 1530  
attorney, the victim or the victim's representative, as defined in 1531  
section 2930.01 of the Revised Code, and any other person the 1532  
court determines is likely to present additional relevant 1533  
information. The court shall consider any statement of a victim 1534  
made pursuant to section 2930.14 or 2930.17 of the Revised Code, 1535  
any victim impact statement prepared pursuant to section 2947.051 1536  
of the Revised Code, and any report made under division (E) of 1537  
this section. After ruling on the motion, the court shall notify 1538  
the victim of the ruling in accordance with sections 2930.03 and 1539  
2930.16 of the Revised Code. 1540

(H)(1) A court shall not grant a judicial release under this 1541  
section to an eligible offender who is imprisoned for a felony of 1542  
the first or second degree, or to an eligible offender who 1543  
committed an offense contained in Chapter 2925. or 3719. of the 1544  
Revised Code and for whom there was a presumption under section 1545  
2929.13 of the Revised Code in favor of a prison term, unless the 1546  
court, with reference to factors under section 2929.12 of the 1547  
Revised Code, finds both of the following: 1548

(a) That a sanction other than a prison term would adequately 1549  
punish the offender and protect the public from future criminal 1550  
violations by the eligible offender because the applicable factors 1551

indicating a lesser likelihood of recidivism outweigh the 1552  
applicable factors indicating a greater likelihood of recidivism; 1553  
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(b) That a sanction other than a prison term would not demean 1555  
the seriousness of the offense because factors indicating that the 1556  
eligible offender's conduct in committing the offense was less 1557  
serious than conduct normally constituting the offense outweigh 1558  
factors indicating that the eligible offender's conduct was more 1559  
serious than conduct normally constituting the offense. 1560

(2) A court that grants a judicial release to an eligible 1561  
offender under division (H)(1) of this section shall specify on 1562  
the record both findings required in that division and also shall 1563  
list all the factors described in that division that were 1564  
presented at the hearing. 1565

(I) If the court grants a motion for judicial release under 1566  
this section, the court shall order the release of the eligible 1567  
offender, shall place the eligible offender under an appropriate 1568  
community control sanction, under appropriate community control 1569  
conditions, and under the supervision of the department of 1570  
probation serving the court, and shall reserve the right to 1571  
reimpose the sentence that it reduced pursuant to the judicial 1572  
release if the offender violates the sanction. If the court 1573  
reimposes the reduced sentence pursuant to this reserved right, it 1574  
may do so either concurrently with, or consecutive to, any new 1575  
sentence imposed upon the eligible offender as a result of the 1576  
violation that is a new offense. The period of the community 1577  
control sanction shall be no longer than five years. The court, in 1578  
its discretion, may reduce the period of the community control 1579  
sanction by the amount of time the eligible offender spent in jail 1580  
for the offense and in prison. If the court made any findings 1581  
pursuant to division (H)(1) of this section, the court shall serve 1582  
a copy of the findings upon counsel for the parties within fifteen 1583

days after the date on which the court grants the motion for 1584  
judicial release. 1585

Prior to being released pursuant to a judicial release 1586  
granted under this section, the eligible offender shall serve any 1587  
extension of sentence that was imposed under section 2967.11 of 1588  
the Revised Code. 1589

**Sec. 2951.041.** (A)(1) If an offender is charged with a 1590  
criminal offense and the court has reason to believe that drug or 1591  
alcohol usage by the offender was a factor leading to the 1592  
offender's criminal behavior, the court may accept, prior to the 1593  
entry of a guilty plea, the offender's request for intervention in 1594  
lieu of conviction. The request shall include a waiver of the 1595  
defendant's right to a speedy trial, the preliminary hearing, the 1596  
time period within which the grand jury may consider an indictment 1597  
against the offender, and arraignment, unless the hearing, 1598  
indictment, or arraignment has already occurred. The court may 1599  
reject an offender's request without a hearing. If the court 1600  
elects to consider an offender's request, the court shall conduct 1601  
a hearing to determine whether the offender is eligible under this 1602  
section for intervention in lieu of conviction and shall stay all 1603  
criminal proceedings pending the outcome of the hearing. If the 1604  
court schedules a hearing, the court shall order an assessment of 1605  
the offender for the purpose of determining the offender's 1606  
eligibility for intervention in lieu of conviction and 1607  
recommending an appropriate intervention plan. 1608

(2) The victim notification provisions of division (C) of 1609  
section 2930.08 of the Revised Code apply in relation to any 1610  
hearing held under division (A)(1) of this section. 1611

(B)~~(1)~~ An offender is eligible for intervention in lieu of 1612  
conviction if the court finds all of the following: 1613

(1)~~(a)~~ The offender previously has not been convicted of or 1614

pleaded guilty to a felony, previously has not been through 1615  
intervention in lieu of conviction under this section or any 1616  
similar regimen, and is charged with a felony for which the court, 1617  
upon conviction, would impose sentence under division (B)(2)(b) of 1618  
section 2929.13 of the Revised Code or with a misdemeanor. 1619

(2)(b) The offense is not a felony of the first, second, or 1620  
third degree, is not an offense of violence, is not a violation of 1621  
division (A)(1) or (2) of section 2903.06 of the Revised Code, is 1622  
not a violation of division (A)(1) of section 2903.08 of the 1623  
Revised Code, is not a violation of division (A) of section 1624  
4511.19 of the Revised Code or a municipal ordinance that is 1625  
substantially similar to that division, and is not an offense for 1626  
which a sentencing court is required to impose a mandatory prison 1627  
term, a mandatory term of local incarceration, or a mandatory term 1628  
of imprisonment in a jail. 1629

(3)(c) The offender is not charged with a violation of 1630  
section 2925.02, 2925.03, 2925.04, or 2925.06, ~~or~~ of the Revised 1631  
Code and is not charged with a violation of section 2925.11 of the 1632  
Revised Code that is a felony of the first, second, or third 1633  
degree. 1634

(4)(d) The offender is not charged with a violation of 1635  
section 2925.11 of the Revised Code that is a felony of the fourth 1636  
degree, or the offender is charged with a violation of that 1637  
section that is a felony of the fourth degree, and the prosecutor 1638  
in the case has recommended that the offender be classified as 1639  
being eligible for intervention in lieu of conviction under this 1640  
section. 1641

(5)(e) The offender has been assessed by an appropriately 1642  
licensed provider, certified facility, or licensed and 1643  
credentialed professional, including, but not limited to, a 1644  
program licensed by the department of alcohol and drug addiction 1645  
services pursuant to section 3793.11 of the Revised Code, a 1646

program certified by that department pursuant to section 3793.06 1647  
of the Revised Code, a public or private hospital, the United 1648  
States department of veterans affairs, another appropriate agency 1649  
of the government of the United States, or a licensed physician, 1650  
psychiatrist, psychologist, independent social worker, 1651  
professional counselor, or chemical dependency counselor for the 1652  
purpose of determining the offender's eligibility for intervention 1653  
in lieu of conviction and recommending an appropriate intervention 1654  
plan. 1655

(6)(f) The offender's drug or alcohol usage was a factor 1656  
leading to the criminal offense with which the offender is 1657  
charged, intervention in lieu of conviction would not demean the 1658  
seriousness of the offense, and intervention would substantially 1659  
reduce the likelihood of any future criminal activity. 1660

(7) The alleged victim of the offense was not sixty-five 1661  
years of age or older, permanently and totally disabled, under 1662  
thirteen years of age, or a peace officer engaged in the officer's 1663  
official duties at the time of the alleged offense. 1664

(8) If the offender is charged with a violation of section 1665  
2925.24 of the Revised Code, the alleged violation did not result 1666  
in physical harm to any person, and the offender previously has 1667  
not been treated for drug abuse. 1668

(9) The offender is willing to comply with all terms and 1669  
conditions imposed by the court pursuant to division (D) of this 1670  
section. 1671

(C)(2) At the conclusion of a hearing held pursuant to 1672  
division (A) of this section, the court shall enter its 1673  
determination as to whether the offender is eligible for 1674  
intervention in lieu of conviction and as to whether to grant the 1675  
offender's request. If the court finds under division (B)(1) of 1676  
this section that the offender is eligible for ~~treatment~~ 1677  
intervention in lieu of conviction and grants the offender's 1678

request, the court shall accept the offender's plea of guilty and 1679  
waiver of the defendant's right to a speedy trial, the preliminary 1680  
hearing, the time period within which the grand jury may consider 1681  
an indictment against the offender, and arraignment, unless the 1682  
hearing, indictment, or arraignment has already occurred. In 1683  
addition, the court then may stay all criminal proceedings and 1684  
order the offender to comply with all terms and conditions imposed 1685  
by the court pursuant to division (D) of this section. If the 1686  
court finds that the offender is not eligible or does not grant 1687  
the offender's request, the criminal proceedings against the 1688  
offender shall proceed as if the offender's request for 1689  
intervention in lieu of conviction had not been made. 1690

(D) If the court grants an offender's request for 1691  
intervention in lieu of conviction, the court shall place the 1692  
offender under the general control and supervision of the county 1693  
probation department, the adult parole authority, or another 1694  
appropriate local probation or court services agency, if one 1695  
exists, as if the offender was subject to a community control 1696  
sanction imposed under section 2929.15 or 2929.18 of the Revised 1697  
Code or was on probation under sections 2929.51 and 2951.02 of the 1698  
Revised Code and other provisions of the misdemeanor sentencing 1699  
law. The court shall establish an intervention plan for the 1700  
offender. The terms and conditions of the intervention plan shall 1701  
require the offender, for at least one year from the date on which 1702  
the court grants the order of intervention in lieu of conviction, 1703  
to abstain from the use of illegal drugs and alcohol and to submit 1704  
to regular random testing for drug and alcohol use and may include 1705  
any other treatment terms and conditions, or terms and conditions 1706  
similar to community control sanctions, that are ordered by the 1707  
court. 1708

(E) If the court grants an offender's request for 1709  
intervention in lieu of conviction and the court finds that the 1710

offender has successfully completed the intervention plan for the  
offender, including the requirement that the offender abstain from  
using drugs and alcohol for a period of at least one year from the  
date on which the court granted the order of intervention in lieu  
of conviction and all other terms and conditions ordered by the  
court, the court shall dismiss the proceedings against the  
offender. Successful completion of the intervention plan and  
period of abstinence under this section shall be without  
adjudication of guilt and is not a criminal conviction for  
purposes of any disqualification or disability imposed by law and  
upon conviction of a crime, and the court may order the sealing of  
records related to the offense in question in the manner provided  
in sections 2953.31 to 2953.36 of the Revised Code.

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(F) If the court grants an offender's request for  
intervention in lieu of conviction and the offender fails to  
comply with any term or condition imposed as part of the  
intervention plan for the offender, the supervising authority for  
the offender promptly shall advise the court of this failure, and  
the court shall hold a hearing to determine whether the offender  
failed to comply with any term or condition imposed as part of the  
plan. If the court determines that the offender has failed to  
comply with any of those terms and conditions, it shall enter a  
finding of guilty and shall impose an appropriate sanction under  
Chapter 2929. of the Revised Code.

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(G) As used in this section:

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(1) "Community control sanction" has the same meaning as in  
section 2929.01 of the Revised Code.

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(2) "Intervention in lieu of conviction" means any  
court-supervised activity that complies with this section.

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(3) "Peace officer" has the same meaning as in section  
2935.01 of the Revised Code.

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**Sec. 3719.21.** Except as provided in division (C) of section 1742  
2923.42, division (B)(5) of section 2923.44, divisions (D)(1), 1743  
(F), and (H) of section 2925.03, division (D)(1) of section 1744  
2925.02, 2925.04, or 2925.05, division (E)(1) of section 2925.11, 1745  
division (F) of section 2925.13 ~~or, division (E) of section~~ 1746  
2925.36, division (D) of section 2925.22, division (H) of section 1747  
2925.23, division (M) of section 2925.37, division (B)(5) of 1748  
section 2925.42, division (B) of section 2929.18, division (D) of 1749  
section 3719.99, division (B)(1) of section 4729.65, and division 1750  
(E)(3) of section 4729.99 of the Revised Code, the clerk of the 1751  
court shall pay all fines or forfeited bail assessed and collected 1752  
under prosecutions or prosecutions commenced for violations of 1753  
this chapter, section 2923.42 of the Revised Code, or Chapter 1754  
2925. of the Revised Code, within thirty days, to the executive 1755  
director of the state board of pharmacy, and the executive 1756  
director shall deposit the fines into the state treasury to the 1757  
credit of the occupational licensing and regulatory fund. 1758

**Sec. 5120.031.** (A) As used in this section: 1759

(1) "Certificate of high school equivalence" means a 1760  
statement that is issued by the state board of education or an 1761  
equivalent agency of another state and that indicates that its 1762  
holder has achieved the equivalent of a high school education as 1763  
measured by scores obtained on the tests of general educational 1764  
development published by the American council on education. 1765

(2) "Certificate of adult basic education" means a statement 1766  
that is issued by the department of rehabilitation and correction 1767  
through the Ohio central school system approved by the state board 1768  
of education and that indicates that its holder has achieved a 6.0 1769  
grade level, or higher, as measured by scores of nationally 1770  
standardized or recognized tests. 1771

(3) "Deadly weapon" and "firearm" have the same meanings as 1772  
in section 2923.11 of the Revised Code. 1773

(4) "Eligible offender" means a person, other than one who is 1774  
ineligible to participate in an intensive program prison under the 1775  
criteria specified in section 5120.032 of the Revised Code, who 1776  
has been convicted of or pleaded guilty to, and has been sentenced 1777  
for, a felony. 1778

(5) "Shock incarceration" means the program of incarceration 1779  
that is established pursuant to the rules of the department of 1780  
rehabilitation and correction adopted under this section. 1781

(B)(1) The director of rehabilitation and correction, by 1782  
rules adopted under Chapter 119. of the Revised Code, shall 1783  
establish a pilot program of shock incarceration that may be used 1784  
for ~~eligible~~ offenders who are sentenced to serve a term of 1785  
imprisonment under the custody of the department of rehabilitation 1786  
and correction, whom the department determines to be eligible 1787  
offenders, and whom the department, subject to the approval of the 1788  
sentencing judge, may permit to serve their sentence as a sentence 1789  
of shock incarceration in accordance with this section. 1790

(2) The rules for the pilot program shall require that the 1791  
program be established at an appropriate state correctional 1792  
institution designated by the director and that the program 1793  
consist of both of the following for each eligible offender whom 1794  
the department, with the approval of the sentencing judge, permits 1795  
to serve the eligible offender's sentence as a sentence of shock 1796  
incarceration: 1797

(a) A period of imprisonment at that institution of ninety 1798  
days that shall consist of a military style combination of 1799  
discipline, physical training, and hard labor and substance abuse 1800  
education, employment skills training, social skills training, and 1801  
psychological treatment. During the ninety-day period, the 1802

department may permit an eligible offender to participate in a self-help program. Additionally, during the ninety-day period, an eligible offender who holds a high school diploma or a certificate of high school equivalence may be permitted to tutor other eligible offenders in the shock incarceration program. If an eligible offender does not hold a high school diploma or certificate of high school equivalence, the eligible offender may elect to participate in an education program that is designed to award a certificate of adult basic education or an education program that is designed to award a certificate of high school equivalence to those eligible offenders who successfully complete the education program, whether the completion occurs during or subsequent to the ninety-day period. To the extent possible, the department shall use as teachers in the education program persons who have been issued a license pursuant to sections 3319.22 to 3319.31 of the Revised Code, who have volunteered their services to the education program, and who satisfy any other criteria specified in the rules for the pilot project.

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(b) Immediately following the ninety-day period of imprisonment, and notwithstanding any other provision governing the early release of a prisoner from imprisonment or the transfer of a prisoner to transitional control, one of the following, as determined by the director:

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(i) An intermediate, transitional type of detention for the period of time determined by the director and, immediately following the intermediate, transitional type of detention, a release under a post-release control sanction imposed in accordance with section 2967.28 of the Revised Code. The period of intermediate, transitional type of detention imposed by the director under this division may be in a halfway house, in a community-based correctional facility and program or district community-based correctional facility and program established

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under sections 2301.51 to 2301.56 of the Revised Code, or in any 1835  
other facility approved by the director that provides for 1836  
detention to serve as a transition between imprisonment in a state 1837  
correctional institution and release from imprisonment. 1838

(ii) A release under a post-release control sanction imposed 1839  
in accordance with section 2967.28 of the Revised Code. 1840

(3) The rules for the pilot program also shall include, but 1841  
are not limited to, all of the following: 1842

(a) Rules identifying the locations within the state 1843  
correctional institution designated by the director that will be 1844  
used for eligible offenders serving a sentence of shock 1845  
incarceration; 1846

(b) Rules establishing specific schedules of discipline, 1847  
physical training, and hard labor for eligible offenders serving a 1848  
sentence of shock incarceration, based upon the offender's 1849  
physical condition and needs; 1850

(c) Rules establishing standards and criteria for the 1851  
department to use in determining which eligible offenders the 1852  
department will permit to serve their sentence of imprisonment as 1853  
a sentence of shock incarceration; 1854

(d) Rules establishing guidelines for the selection of 1855  
post-release control sanctions for eligible offenders; 1856

(e) Rules establishing procedures for notifying sentencing 1857  
courts of the performance of eligible offenders serving their 1858  
sentences of imprisonment as a sentence of shock incarceration; 1859

(f) Any other rules that are necessary for the proper conduct 1860  
of the pilot program. 1861

(C)(1) If an offender is sentenced to a term of imprisonment 1862  
under the custody of the department, ~~if the sentencing court~~ 1863  
~~determined that the offender is eligible for placement in a~~ 1864

~~program of shock incarceration under this section, and if the~~ 1865  
sentencing court either recommends the offender for placement in a 1866  
program of shock incarceration under this section or makes no 1867  
recommendation on placement of the offender, and if the department 1868  
determines that the offender is an eligible offender for placement 1869  
in a program of shock incarceration under this section, the 1870  
department may permit the eligible offender to serve the sentence 1871  
in a program of shock incarceration, in accordance with division 1872  
(K) of section 2929.14 of the Revised Code, with this section, and 1873  
with the rules adopted under this section. If the sentencing court 1874  
disapproves placement of the offender in a program of shock 1875  
incarceration, the department shall not place the offender in any 1876  
program of shock incarceration. 1877

If the sentencing court recommends the offender for placement 1878  
in a program of shock incarceration and if the department 1879  
subsequently places the offender in the recommended program, the 1880  
department shall notify the court of the offender's placement in 1881  
the recommended program and shall include with the notice a brief 1882  
description of the placement. 1883

If the sentencing court ~~approves~~ recommends placement of the 1884  
offender in a program of shock incarceration and the department 1885  
for any reason does not subsequently place the offender in the 1886  
recommended program, the department shall send a notice to the 1887  
court indicating why the offender was not placed in the 1888  
recommended program. 1889

If the sentencing court does not make a recommendation on the 1890  
placement of an ~~eligible~~ offender in a program of shock 1891  
incarceration and if the department determines that the offender 1892  
is an eligible offender for placement in a program of that nature, 1893  
the department shall screen the offender and determine if the 1894  
offender is suited for the program of shock incarceration. If the 1895  
offender is suited for the program of shock incarceration, at 1896

least three weeks prior to permitting an eligible offender to 1897  
serve the sentence in a program of shock incarceration, the 1898  
department shall notify the sentencing court of the proposed 1899  
placement of the offender in the program and shall include with 1900  
the notice a brief description of the placement. The court shall 1901  
have ten days from receipt of the notice to disapprove the 1902  
placement. If the sentencing court disapproves of the placement, 1903  
the department shall not permit the eligible offender to serve the 1904  
sentence in a program of shock incarceration. If the judge does 1905  
not timely disapprove of placement of the offender in the program 1906  
of shock incarceration, the department may proceed with plans for 1907  
placement of the offender. 1908

If the ~~sentencing court determined~~ department determines that 1909  
the offender is not eligible for placement in a program of shock 1910  
incarceration ~~or if the sentencing court disapproves placement of~~ 1911  
~~the offender in a program of that nature,~~ the department of 1912  
~~rehabilitation and correction~~ shall not place the offender in any 1913  
program of shock incarceration. 1914

(2) If the department permits an eligible offender to serve 1915  
the eligible offender's sentence of imprisonment as a sentence of 1916  
shock incarceration and the eligible offender does not 1917  
satisfactorily complete the entire period of imprisonment 1918  
described in division (B)(2)(a) of this section, the offender 1919  
shall be removed from the pilot program for shock incarceration 1920  
and shall be required to serve the remainder of the offender's 1921  
sentence of imprisonment imposed by the sentencing court as a 1922  
regular term of imprisonment. If the eligible offender commences a 1923  
period of post-release control described in division (B)(2)(b) of 1924  
this section and violates the conditions of that post-release 1925  
control, the eligible offender shall be subject to the provisions 1926  
of sections 2967.15 and 2967.28 of the Revised Code regarding 1927  
violation of post-release control sanctions. 1928

(3) If an eligible offender's stated prison term expires at 1929  
any time during the eligible offender's participation in the shock 1930  
incarceration program, the adult parole authority shall terminate 1931  
the eligible offender's participation in the program and shall 1932  
issue to the eligible offender a certificate of expiration of the 1933  
stated prison term. 1934

(D) The director shall keep sentencing courts informed of the 1935  
performance of eligible offenders serving their sentences of 1936  
imprisonment as a sentence of shock incarceration, including, but 1937  
not limited to, notice of eligible offenders who fail to 1938  
satisfactorily complete their entire sentence of shock 1939  
incarceration or who satisfactorily complete their entire sentence 1940  
of shock incarceration. 1941

(E) Within a reasonable period of time after November 20, 1942  
1990, the director shall appoint a committee to search for one or 1943  
more suitable sites at which one or more programs of shock 1944  
incarceration, in addition to the pilot program required by 1945  
division (B)(1) of this section, may be established. The search 1946  
committee shall consist of the director or the director's 1947  
designee, as chairperson; employees of the department of 1948  
rehabilitation and correction appointed by the director; and any 1949  
other persons that the director, in the director's discretion, 1950  
appoints. In searching for such sites, the search committee shall 1951  
give preference to any site owned by the state or any other 1952  
governmental entity and to any existing structure that reasonably 1953  
could be renovated, enlarged, converted, or remodeled for purposes 1954  
of establishing such a program. The search committee shall prepare 1955  
a report concerning its activities and, on the earlier of the day 1956  
that is twelve months after the first day on which an eligible 1957  
offender began serving a sentence of shock incarceration under the 1958  
pilot program or January 1, 1992, shall file the report with the 1959  
president and the minority leader of the senate, the speaker and 1960

the minority leader of the house of representatives, the members  
of the senate who were members of the senate judiciary committee  
in the 118th general assembly or their successors, and the members  
of the house of representatives who were members of the select  
committee to hear drug legislation that was established in the  
118th general assembly or their successors. Upon the filing of the  
report, the search committee shall terminate. The report required  
by this division shall contain all of the following:

(1) A summary of the process used by the search committee in  
performing its duties under this division;

(2) A summary of all of the sites reviewed by the search  
committee in performing its duties under this division, and the  
benefits and disadvantages it found relative to the establishment  
of a program of shock incarceration at each such site;

(3) The findings and recommendations of the search committee  
as to the suitable site or sites, if any, at which a program of  
shock incarceration, in addition to the pilot program required by  
division (B)(1) of this section, may be established.

(F) The director periodically shall review the pilot program  
for shock incarceration required to be established by division  
(B)(1) of this section. The director shall prepare a report  
relative to the pilot program and, on the earlier of the day that  
is twelve months after the first day on which an eligible offender  
began serving a sentence of shock incarceration under the pilot  
program or January 1, 1992, shall file the report with the  
president and the minority leader of the senate, the speaker and  
the minority leader of the house of representatives, the members  
of the senate who were members of the senate judiciary committee  
in the 118th general assembly or their successors, and the members  
of the house of representatives who were members of the select  
committee to hear drug legislation that was established in the



118th general assembly or their successors. The pilot program 1993  
shall not terminate at the time of the filing of the report, but 1994  
shall continue in operation in accordance with this section. The 1995  
report required by this division shall include all of the 1996  
following: 1997

(1) A summary of the pilot program as initially established, 1998  
a summary of all changes in the pilot program made during the 1999  
period covered by the report and the reasons for the changes, and 2000  
a summary of the pilot program as it exists on the date of 2001  
preparation of the report; 2002

(2) A summary of the effectiveness of the pilot program, in 2003  
the opinion of the director and employees of the department 2004  
involved in its operation; 2005

(3) An analysis of the total cost of the pilot program, of 2006  
its cost per inmate who was permitted to serve a sentence of shock 2007  
incarceration and who served the entire sentence of shock 2008  
incarceration, and of its cost per inmate who was permitted to 2009  
serve a sentence of shock incarceration; 2010

(4) A summary of the standards and criteria used by the 2011  
department in determining which eligible offenders were permitted 2012  
to serve their sentence of imprisonment as a sentence of shock 2013  
incarceration; 2014

(5) A summary of the characteristics of the eligible 2015  
offenders who were permitted to serve their sentence of 2016  
imprisonment as a sentence of shock incarceration, which summary 2017  
shall include, but not be limited to, a listing of every offense 2018  
of which any such eligible offender was convicted or to which any 2019  
such eligible offender pleaded guilty and in relation to which the 2020  
eligible offender served a sentence of shock incarceration, and 2021  
the total number of such eligible offenders who were convicted of 2022  
or pleaded guilty to each such offense; 2023

(6) A listing of the number of eligible offenders who were 2024  
permitted to serve a sentence of shock incarceration and who did 2025  
not serve the entire sentence of shock incarceration, and, to the 2026  
extent possible, a summary of the length of the terms of 2027  
imprisonment served by such eligible offenders after they were 2028  
removed from the pilot program; 2029

(7) A summary of the effect of the pilot program on 2030  
overcrowding at state correctional institutions; 2031

(8) To the extent possible, an analysis of the rate of 2032  
recidivism of eligible offenders who were permitted to serve a 2033  
sentence of shock incarceration and who served the entire sentence 2034  
of shock incarceration; 2035

(9) Recommendations as to legislative changes to the pilot 2036  
program that would assist in its operation or that could further 2037  
alleviate overcrowding at state correctional institutions, and 2038  
recommendations as to whether the pilot program should be 2039  
expanded. 2040

**Sec. 5120.032.** (A) No later than January 1, 1998, the 2041  
department of rehabilitation and correction shall develop and 2042  
implement intensive program prisons for male and female prisoners 2043  
other than prisoners described in division (B)(2) of this section. 2044  
The intensive program prisons shall include institutions at which 2045  
imprisonment of the type described in division (B)(2)(a) of 2046  
section 5120.031 of the Revised Code is provided and prisons that 2047  
focus on educational achievement, vocational training, alcohol and 2048  
other drug abuse treatment, community service and conservation 2049  
work, and other intensive regimens or combinations of intensive 2050  
regimens. 2051

(B)(1)(a) Except as provided in division (B)(2) of this 2052  
section, if an offender is sentenced to a term of imprisonment 2053  
under the custody of the department, if the sentencing court 2054

determines that a prisoner is eligible for placement in an intensive program prison under this section and the sentencing court either recommends the offender prisoner for placement in the intensive program prison under this section or makes no recommendation on placement of the prisoner, and if the department determines that the prisoner is eligible for placement in an intensive program prison under this section, the department may place the prisoner in an intensive program prison established pursuant to division (A) of this section. If the sentencing court disapproves placement of the prisoner in an intensive program prison, the department shall not place the prisoner in any intensive program prison.

If the sentencing court recommends a prisoner for placement in an intensive program prison and if the department subsequently places the prisoner in the recommended prison, the department shall notify the court of the prisoner's placement in the recommended intensive program prison and shall include with the notice a brief description of the placement.

If the sentencing court ~~approves~~ recommends placement of a prisoner in an intensive program prison and the department for any reason does not subsequently place the offender prisoner in the recommended prison, the department shall send a notice to the court indicating why the prisoner was not placed in the recommended prison.

If the sentencing court does not make a recommendation on the placement of ~~an eligible~~ a prisoner in an intensive program prison and if the department determines that the prisoner is eligible for placement in a prison of that nature, the department shall screen the prisoner and determine if the prisoner is suited for the prison. If the prisoner is suited for the intensive program prison, at least three weeks prior to placing the prisoner in the prison, the department shall notify the sentencing court of the

proposed placement of the prisoner in the intensive program prison 2087  
and shall include with the notice a brief description of the 2088  
placement. The court shall have ten days from receipt of the 2089  
notice to disapprove the placement. If the sentencing court 2090  
disapproves the placement, the department shall not proceed with 2091  
it. If the sentencing court does not timely disapprove of the 2092  
placement, the department may proceed with plans for it. 2093

If the ~~sentencing court~~ department determines that a prisoner 2094  
is not eligible for placement in an intensive program prison ~~or if~~ 2095  
~~the sentencing court disapproves placement of an offender in a~~ 2096  
~~prison of that nature~~, the department of ~~rehabilitation and~~ 2097  
~~correction~~ shall not place the prisoner in any intensive program 2098  
prison. 2099

(b) The department may reduce the stated prison term of a 2100  
prisoner upon the prisoner's successful completion of a ninety-day 2101  
period in an intensive program prison. A prisoner whose term has 2102  
been so reduced shall be required to serve an intermediate, 2103  
transitional type of detention followed by a release under 2104  
post-release control sanctions or, in the alternative, shall be 2105  
placed under post-release control sanctions, as described in 2106  
division (B)(2)(b)(ii) of section 5120.031 of the Revised Code. In 2107  
either case, the placement under post-release control sanctions 2108  
shall be under terms set by the parole board in accordance with 2109  
section 2967.28 of the Revised Code and shall be subject to the 2110  
provisions of that section with respect to a violation of any 2111  
post-release control sanction. 2112

(2) A prisoner who is in any of the following categories is 2113  
not eligible to participate in an intensive program prison 2114  
established pursuant to division (A) of this section: 2115

(a) The prisoner is serving a prison term for aggravated 2116  
murder, murder, or a felony of the first or second degree or a 2117  
comparable offense under the law in effect prior to July 1, 1996, 2118

or the prisoner previously has been imprisoned for aggravated 2119  
murder, murder, or a felony of the first or second degree or a 2120  
comparable offense under the law in effect prior to July 1, 1996. 2121

(b) The prisoner is serving a mandatory prison term, as 2122  
defined in section 2929.01 of the Revised Code. 2123

(c) The prisoner is serving a prison term for a felony of the 2124  
third, fourth, or fifth degree that either is a sex offense, an 2125  
offense betraying public trust, or an offense in which the 2126  
prisoner caused or attempted to cause actual physical harm to a 2127  
person, the prisoner is serving a prison term for a comparable 2128  
offense under the law in effect prior to July 1, 1996, or the 2129  
prisoner previously has been imprisoned for an offense of that 2130  
type or a comparable ~~offence~~ offense under the law in effect prior 2131  
to July 1, 1996. 2132

(d) The prisoner is serving a mandatory prison term in prison 2133  
for a third or ~~fourth~~ fourth degree felony OMVI offense, as defined 2134  
in section 2929.01 of the Revised Code, that was imposed pursuant 2135  
to division (G)(2) of section 2929.13 of the Revised Code. 2136  
2137

(C) Upon the implementation of intensive program prisons 2138  
pursuant to division (A) of this section, the department at all 2139  
times shall maintain intensive program prisons sufficient in 2140  
number to reduce the prison terms of at least three hundred fifty 2141  
prisoners who are eligible for reduction of their stated prison 2142  
terms as a result of their completion of a regimen in an intensive 2143  
program prison under this section. 2144

**Section 2.** That existing sections 181.25, 2925.23, 2925.36, 2145  
2929.01, 2929.13, 2929.14, 2929.19, 2929.20, 2951.041, 3719.21, 2146  
5120.031, and 5120.032 of the Revised Code are hereby repealed. 2147

**Section 3.** Sections 1 and 2 of this act shall take effect on 2148

January 1, 2002, or the earliest date permitted by law, whichever 2149  
is later. 2150

**Section 4.** Section 2929.01 of the Revised Code is presented 2151  
in this act as a composite of the section as amended by Am. Sub. 2152  
H.B. 349, Am. Sub. S.B. 179, and Am. Sub. S.B. 222 of the 123rd 2153  
General Assembly. Section 2929.13 of the Revised Code is presented 2154  
in this act as a composite of the section as amended by Am. H.B. 2155  
528, Am. Sub. S.B. 22, Am. Sub. S.B. 107, Am. S.B. 142, and Am. 2156  
Sub. S.B. 222 of the 123rd General Assembly. Section 2929.19 of 2157  
the Revised Code is presented in this act as a composite of the 2158  
section as amended by Am. Sub. H.B. 349, Am. Sub. S.B. 22, and Am. 2159  
Sub. S.B. 107 of the 123rd General Assembly. Section 2951.041 of 2160  
the Revised Code is presented in this act as a composite of the 2161  
section as amended by both Sub. H.B. 202 and Am. Sub. S.B. 107 of 2162  
the 123rd General Assembly. Section 5120.032 of the Revised Code 2163  
is presented in this act as a composite of the section as amended 2164  
by both Am. Sub. S.B. 22 and Am. Sub. S.B. 107 of the 123rd 2165  
General Assembly. The General Assembly, applying the principle 2166  
stated in division (B) of section 1.52 of the Revised Code that 2167  
amendments are to be harmonized if reasonably capable of 2168  
simultaneous operation, finds that the composites are the 2169  
resulting versions of the sections in effect prior to the 2170  
effective date of the sections as presented in this act. 2171